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1905

GENERAL PUBLIC SCHOOL LAWS

OF

ALABAMA

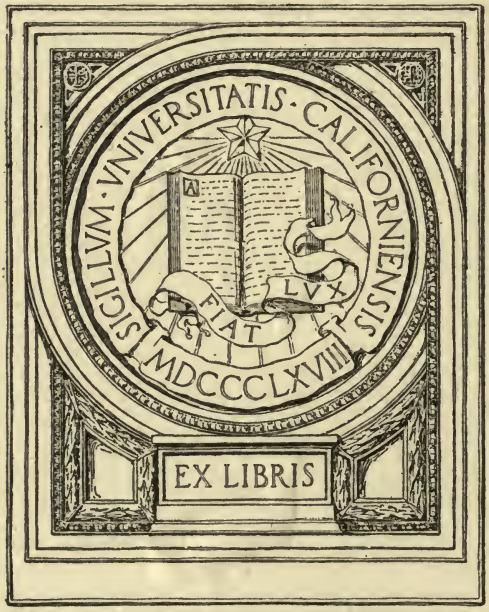
1905

ISSUED BY

ISAAC W. HILL

Superintendent of Education

GIFT OF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GENERAL

PUBLIC SCHOOL LAWS

OF

ALABAMA

1905

OF
CALIFORNIA

ISSUED BY

ISAAC W. HILL

Superintendent of Education

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DEPARTMENT OF EDUCATION.

ISAAC W. HILL,
Superintendent of Education.

HARRY C. GUNNELS,
Chief Clerk.

W. C. SWANSON and N. I. BILLING,
Bookkeepers.

MISS LENA FABER,
Stenographer.

STATE BOARD OF EXAMINERS.

ISAAC W. HILL, Ex-Officio President.
WM. F. FEAGIN, Secretary.
J. NICHOLENE BISHOP.

MISS SUSIE OFFUTT, Stenographer.

PUBLIC SCHOOL LAWS OF ALABAMA.

ARTICLE I.

PUBLIC SCHOOL FUND.

3539. *Appropriations for public schools.*—For the maintenance of a system of public schools throughout the State, the following sums of money are hereby appropriated for each scholastic year, to-wit:

1. The annual interest at six per cent. on all sums of money which have heretofore been, or which may hereafter be received by the State, as the proceeds of sales of lands granted or instituted by the United States to the State, or to the several townships thereof, for school purposes.
2. The annual interest at four per cent. on that part of the surplus revenue of the United States, deposited with the State under the act of congress approved June 23, 1836.
3. All the annual rents, incomes and profits, or interests, arising from the proceeds of sales of all such lands as may hereafter be given by the United States or by this State, or by individuals, for the support of the public schools of the State.
4. All of such sums as may accrue to the State as escheats; the same to be applied to the support of the public schools during the scholastic year next succeeding their receipt in the State treasury.
5. The further sum of five hundred and fifty thousand dollars, from any money in the treasury not otherwise appropriated. (As amended.)
6. The net amount of poll tax that may be collected in the State; the poll tax collected in each county to be retained therein for the support of the public schools thereof, and distributed and disbursed as provided in this chapter.

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7. All rents, incomes and profits received into the State treasury during the scholastic year from all lands heretofore donated by the congress of the United States for the support of the public schools, and remaining unsold, which shall be applied to the support of the public schools during the scholastic year next succeeding their receipt into the treasury.

8. Licenses which are by law required to be paid into the school fund of any county; to be promptly paid by the judge of probate, or other person collecting the same, to the county superintendent of education, and to be expended for the benefit of the public schools of such county.

3540. *When appropriations accrue, and placed to credit of educational fund.*—All such appropriations, except the poll-tax, shall accrue to the educational fund on the first day of October, in each year; and on that day the State Auditor shall place to the credit of that fund, on the books in his office, all such amounts as accrue thereto from the sources in this article mentioned, except the poll-tax, for the scholastic year beginning on that day.

Article II.

General designation of officers.

3541. *Officers for administration of public schools.* For the administration and government of public schools in this State, there are the following officers:

1. The superintendent of education.
2. A county superintendent of education in each county.
3. Three township trustees in each township.

Article III.

SUPERINTENDENT OF EDUCATION.

3542. (As amended.) *Term of office; salary.—The* superintendent of education holds office for the term of four years from the time of his installation in office, and until his successor is elected and qualified, and shall receive a salary of two thousand, two hundred and fifty dollars per annum, payable in monthly installments, on the last day of each month.

3543. *Oath of office and bond.*—Before entering upon the duties of his office, he shall take the oath of office prescribed by the constitution, and shall also give bond, with sureties to be approved by the Governor, in the sum of fifteen thousand dollars, conditioned faithfully to discharge the duties of his office so long as he shall remain therein, or perform any of the duties thereof; and such bond shall be filed in the office of the Secretary of State.

3544. *Office and books, papers and records.*—He shall have an office at the capitol of the State, where the bonds, papers and records of his office shall be kept, and where he shall give attendance when not absent on official business; and it shall be the privilege of all persons interested to have access, at all proper hours, to the books, papers and records of the office.

3545. *Clerks and their salaries.*—He is authorized to employ four suitable clerks for service in his office; and such clerks shall be allowed salaries as follows: One, fifteen hundred dollars per year; two, twelve hundred dollars per year each; one, five hundred dollars per year, to be paid as the salaries of other department clerks are paid. (As amended.)

3546. *Duties of Superintendent of Education.* —The duties of Superintendent of Education shall be as follows:

1. He shall devote his time to the care and improvement of the common schools, and the promotion of public education, and shall exercise a general supervision over all the educational interests of the State; and to this end, he shall have power to require from the county superintendents of education, township trustees of public schools, and all other school officers, all such reports and information relating to the educational fund, or the condition of schools and management thereof, as he may deem important, or as may be prescribed by law; and he may remove from office any such officer for failure to make such report, give such information, or discharge any other official duty.

2. He shall annually, as far as practicable, visit every county in the State for the purpose of inspecting the schools and their management, the accounts of county superintendents of education, and other school officers, and for diffusing as widely as possible, by personal address and personal communication, information as to the importance of public schools and the best method for their management; and he shall encourage and assist at organizing and conducting teachers' and superintendents' institutes.

3. He shall make provision for instructing all pupils in all schools and colleges supported, in whole or in part by public money, or under State control, in hygiene and physiology, with special reference to the effects of alcoholic drinks, stimulants and narcotics upon the human system.

4. He shall make provision for instructing all pupils in all schools and colleges supported, in whole or in part, by public money, or under State control, in the constitution of the United States and the constitution of the State of Alabama.

5. He shall annually apportion the public school fund to the various townships and school districts, according to the entire number of children of school age, and shall see to the proper disbursment of the same; and to this end, he shall keep an accurate account with all officers who may be custodians or disbursers of the school fund, or any part thereof.

6. He shall prepare all forms, and have printed and distributed all such blanks as may be necessary, or as may be required by law, in the administration of the public school system.

7. He shall furnish the county superintendents and other school officers all necessary books for keeping their accounts and records, to be and remain public property; and he shall prescribe a uniform system of keeping such accounts and records.

8. He shall take receipts for all such books so furnished by him to school officers, and such officers shall take good care thereof, and turn them over to their successors in office.

9. He shall keep a debtor and creditor account with each township, or other school district, in the State, of all funds accruing thereto for educational purposes.

10. He shall keep an accurate account of the capital of all sixteenth-section or other trust funds, to which each township or school district may be entitled, showing whence and when such funds were derived.

11. He shall preserve in his office all bonds of school officers and others required to be filled therein.

12. He shall cause suits to be instituted and prosecuted against all defaulters to the educational fund, and for this purpose may employ attorneys; but he shall not have power to contract or pay such attorneys out of the educational fund more than ten percentum of the amount recovered by them in such suits; and out of such funds he may pay such lawful costs as may be taxed against him as superintendent of education in case he is cast in any such suit.

13. He shall require and supervise the collection of all poll-taxes.

14. He shall, by correspondence, exchange of official reports, and other proper means, elicit information relative to the system of public education in other States and countries, and disseminate all useful knowledge regarding the same among the county superintendents and other school officers in the State.

15. He shall collect in his office such school-books, apparatus, maps, charts and specimens of improved

school furniture as can be obtained without expense to the State.

16. He shall prepare and have printed, in pamphlet form by the public printer, all laws, rules and regulations pertaining to the public school system of the State, including therein the constitution of the United States, and the constitution of the State of Alabama, and cause the same to be distributed among the county superintendents of education, and other officers connected with the school system, for the information of those interested in the educational interests of the State.

17. He shall hold or cause to be held, within each congressional district, one or more teachers' institutes, to be conducted by a teacher experienced in and familiar with the most improved methods of instruction, for a term of one week or more during the summer months of each year; and for such purpose may, from time to time, certify to the auditor the amount, not exceeding five hundred dollars in any one year, necessary to defray the expenses of employing teachers to conduct such institutes and instruct the teachers who attend them, and upon such certificate it shall be the duty of the auditor to draw his warrant upon the treasurer for such sum or sums in favor the superintendent of education as may remain unapportioned in the treasury at the time but the sum so expended in any one year shall not exceed the amount apportioned and paid for such purposes by the trustees of the Peabody Educational Fund in any one year. And such sums must be disbursed so as to secure the greatest good to the largest number of teachers in the common schools, and it shall be the duty of the superintendent of education to take vouchers therefor to be kept on file in his office, and to make an itemized statement in his biennial report, as to how and to whom said money has been disbursed.

18. He shall perform such other duties as are, or may be, prescribed by law.

3547. *Reports to governor; contents.*—He shall also, biennially, on or before the tenth day of October, report to the Governor in writing—

1. A brief history of his labors.

2. An abstract of the reports received by him from the county superintendents of education, exhibiting the condition of the public schools.

3. Estimates and accounts of expenditures of school money.

4. An itemized statement showing how the contingent fund of his department, and all other special funds or appropriations under his control have been disposed of.

5. Such recommendations as he may desire to make for the improvement of the school system, and the care and increase of the educational fund.

6. All such other matters relating to his office and to public schools, as he shall deem expedient to communicate.

3548. *Report to be printed and distributed.*—The governor shall, when such report is laid before him, direct the superintendent of education to have printed in the same manner, and upon the same conditions as other printing is done, during the recess of the general assembly, a sufficient number of copies of the report to supply the county superintendents and township trustees of public schools, and other school officers, and for the usual exchange with other States, and with the leading cities of the United States; and it shall be the duty of the superintendent of education to distribute the same as indicated in this section.

3549. *Vacancy filled by governor; term, etc., of appointee.*—If the office of superintendent of education should, at any time, become vacant, by death, resignation, or otherwise, the governor shall appoint a suitable person to fill such office for the unexpired term; and such appointee shall give bond and qualify in the same manner as if he had been elected for a full term.

Article IV.

COUNTY SUPERINTENDENTS.

3550. *One elected for each county.*—Unless by special act it is otherwise provided, a county superintendent for each county is elected at each general election, as provided in this Code.

3551*. *Term of office; removal.*—The term of office of county superintendents who are elected shall commence on the first day of October next after their election, and the term of those appointed shall commence on the first day of October of each odd year; and in either case, shall be for two years and until their successors shall qualify; but the superintendent of education may, at any time, for good cause shown, remove from office any county superintendent of education, whether elected or appointed.

3552. *Oath of office and bond.*—Every county superintendent of education, before entering upon the duties of his office, must take the oath of office prescribed by the constitution, and give bond in an amount to be fixed by the superintendent of education, but in no case to be less than double the probable amount of money that may be in his hands at any one time, with good and sufficient sureties, and payable and conditioned as official bonds of other public officers.

3553. *Approval and record of bond.*—Such bond must be approved by, and, with the oath of office, must be filed and recorded in the office of the judge of probate of the county; and a certified copy of the bond must also be filed in the office of the superintendent of education for his approval.

[Failure to file copy with superintendent of education no defense to county superintendent of his sureties, in an action for his default.—Reed v. Summers, 79 Ala. 522.]

*Term four years. General Acts 1903, Sec. 27, page 450.

3554. *New or additional bond; effect of notice to give.*—The superintendent of education shall require of any county superintendent of education a new or additional bond, in the same, or a different amount, as that of the original bond, whenever he shall find it necessary for the protection of the educational fund of the county; and no county superintendent of education, after receiving notice to give such new or additional bond, shall continue in the discharge of the duties of his office until such new or additional bond is given.

3555. *Compensation.*—Each county superintendent of education shall receive for his services four per centum on the amount of all the educational fund legally disbursed by him, but such percentum must not be taken and used by him until after the disbursements have been made, and the credits allowed by the superintendent of education.

3556. *His duties.*—The duties of each county superintendent of education shall be as follows:

1. He shall have an office at the county site of his county, where he must, on the first Saturday of each month, from the beginning of the scholastic year until the close of the public schools for that year, be present to transact business with the officers and teachers of public schools.

2. He must receive and take charge of any money, funds, property, or proceeds of any character, raised in his county by county taxation, or which may accrue to him or to the county from any gift, grant, bequest, devise, endowment, or otherwise, to be issued in aid of, or in connection with money apportioned to his county from the educational fund, and shall faithfully keep the same separate and apart from any other funds or property whatsoever; and he shall apportion, distribute and pay out all money raised in accordance with this subdivision; but all money, raised by local taxation in any school district or incorporated city or town, shall be expended for the benefit of the district, city or town in which the money is raised, and by such persons, and in

such manner as are authorized by the laws of force for the control and government of public schools in such district, city or town.

3. He shall examine into the condition of all school funds of his county, including the sixteenth section fund and sixteenth section lands unsold in his county; and he is authorized and required in the name of the State for the use of the township, to bring all necessary suits for the recovery of the possession of such lands, or against trespassers thereon.

4. He shall, as soon as he receives the annual apportionment of the educational fund of his county, forthwith notify the township trustees of each township of the amount apportioned to each township or separate school district.

5. He shall enter in a book or books, kept for that purpose, the exact amount and date of all moneys received and paid out by him on account of the educational fund of his county, showing by whom or to whom paid, and for what purpose, and also the amount of the educational fund apportioned to, and distributed in each township for each race; and such books shall be open to the inspection of all persons interested.

6. He shall, on or before the thirtieth day of September of each year, forward to the superintendent of education, on blanks to be furnished him by the latter, an annual report of the public schools of his county for the preceding year, which shall set forth (1) the amount of school money received by him from all sources to the end of the year, specifying how much was received from each source; (2) how much has been disbursed by him during such year, for what purpose, and the names of teachers to whom money has been paid, the time they taught, and the total amount paid to each teacher; (3) the amount of funds then in hand for each township or school district in this county; and (4) the manner in which, and the extent to which he has discharged the duties required by law to be performed by him.

7. He shall remove from office any township trustee when the interest of public education demands such re-

moval, and he shall fill all vacancies occasioned by removal from office or otherwise.

8. He must quarterly, on the first Saturdays in January, April, July and October, of each year, or as soon thereafter as practicable, pay the teachers of the public schools, upon the certificate of the trustees of the township in which the school was taught; and in counties in which separate districts have been established by special laws, he shall pay over to the officers, authorized to receive the same their proportionate shares of the school revenues at the time above designated. (See page 96 of this pamphlet.)

3557. *Forfeiture for failure to make annual reports.* If any county superintendent shall wilfully fail to make out and forward to the superintendent of education any annual report required by this article, within ten days after the time it should be made, he shall be liable to a forfeiture of his commissions, to be declared by the superintendent of education and to removel from office by the superintendent of education.

3558. *Books and accounts liable to examination.*—The books, accounts and vouchers of the county superintendent of education may be examined at any time by the superintendent of education in person or by duly authorized agent.

3559. *Vacancies, how filled; term, etc., of appointees.*—The superintendent of education shall fill all vacancies in the office of county superintendent of education, by appointment; and such appointee shall hold during the unexpired term, and until his successor qualifies, and shall give bond and qualify as is required of an appointee for a full term.

ARTICLE V.

TOWNSHIP TRUSTEES.

(See Restricting Law, p. 83, beginning at § 6, this phamphlet.)

3560. *Township trustees appointed; term of office.*—Three township trustees for each township, or other school district in each county, who shall be freeholders and householders resident in such township or school district, shall be appointed by the county superintendent of education; and the term of office of all township trustees shall commence on the first day of October of each old year, and continue two years and until their successors shall qualify.

3561. *Establishment and supervision of schools.*—The township trustees shall have the immediate supervision of the public schools in their township or school district, and shall have power to establish, subject to the approval of the county superintendent of education one or more schools for either race in such township or school district, as the public necessity may require.

3562. *Meetings with parents and guardians; business transacted.*—The trustees in each township shall annually, on the last Monday in October, or within seven days thereafter, call a meeting of the parents and guardians of the children of their township within the educational age, and at such meeting they shall, in consultation with such parents and guardians, and with a view to subserve their wishes, interests and convenience, transact the following business:

1. They shall determine the number of schools which shall be established in their township for the current scholastic year, and shall designate the same by number.

2. They shall fix the location of each school, the time of its opening, and the length of the session, which shall not be, except as hereinafter provided, less than twelve weeks.

3. They shall, when they establish the schools in their township, apportion to each school so established such an amount of the public school revenue apportioned to the township for the current scholastic year as they may deem just and equitable for the equal benefit of the children thereof of school age.

4. They shall determine the number and what children shall be transferred from their districts to the schools of other districts, and to what districts transferred, during the scholastic year, and shall set apart such an amount of the money apportioned to their district to pay for such transferred children as they may deem just and equitable; and if it should be deemed impracticable to establish in any district a public school for the children of either race, on account of the want of a sufficient number of such race living within a reasonable distance, they shall determine whether any of such children can be transferred conveniently to a public school in another district, and those that cannot be so transferred, and that have actually attended some school in this State for the time during which the public schools were kept open for the current scholastic year, shall be entitled to the benefits of the amounts apportioned to their district; and they shall determine the amount to which each of such children shall be entitled, and the same shall be paid by the county superintendent of education to the parent or guardian of such child, for which a receipt shall be taken as in case of payments to teachers.

5. In those townships in which less than the requisite number of children of school age reside, it shall be the duty of the township trustees to arrange for the teaching of such children in such manner as they may deem proper and just, subject to the approval of the county superintendent of education, and to pay for the tuition of such children in the manner prescribed by law out of the school funds apportioned to such township.

6. Such other business as may be necessary to carry out the provisions of the law.

3563. *Report after meeting.*—They shall, within ten days after such meeting, report to the county superin-

tendent of education the number and location of the schools, the names of the teachers employed, and the amount of money apportioned to each school.

3564. *Notice and duration of meeting; effect of failure to attend.*—Such meeting shall be called by posting ten days previousy thereto, written notices of the time and place of meeting, and of the business to be transacted thereat, in not less than three public places in the district; and the township trustees shall have power to continue the meeting from day to day until all the business has been transacted, and they may adjourn the same to a future day, not exceeding one week; and if the parents and guardians fail to attend such meeting, the township trustees shall, in their absence, proceed to perform the duties required of them.

3565. *Appeal to county superintendent.—An appeal* may be taken from the decision and action of the township trustees had and done at such meeting, to the county superintendent of education, who shall notify the township trustees of the appeal, and shall appoint a day on which to hear and determine the same, and whose decision shall be final.

3566. *When but one school in township, how located; change of location.*—When but one school is established in a township it shall be so located as to accommodate the largest number of pupils, and to encourage the building of a permanent school house as near the center of the township as possible, whenever it can be done without material injury or inconvenience to the children within the educational age; but such location may be changed by the township trustees from year to year, in order to provide for those who were not in reach of the school in previous years; and in the location of public schools, township trustees must have reference to the population and neighborhood, paying due regard to any school house already built, or site procured, as well as to all other circumstances proper to be considered, so as to promote the interest of free public education.

3567. *To what regard must be had in locating schools and employing teachers.*—In locating public schools, and employing teachers, township trustees shall have due regard to such communities as will supplement the district fund, and to such teachers as will procure and teach the greatest number of pupils within the educational age; the object of this section being to encourage the building up and maintaining of large schools, which shall continue the longest term practicable; but in no case shall such communities and citizens, as are unable and unwilling to supplement the district fund, be deprived of the benefit of the public schools.

3568. *Employing teachers, and opening schools.*—The township trustees shall in no case contract with teachers, or open schools until they have definitely determined the number and location of schools in their district, and the amount of money each school shall receive from the amount apportioned to the district, nor shall they contract for a school of less than three scholastic months, nor less than ten pupils of school age, if there are more than that number of each race within such age, nor more than fifty pupils to each teacher. (Amended 1901. See act below.)

3569. *Execution of contracts with teachers, contract for transferred pupils.*—All contracts with teachers shall be in writing, and shall specify the amount to be paid per month from the district fund, and shall be executed in duplicate, one of which shall be filed with the county superintendent of education for his approval within ten days after it has been signed; and no such contract shall be valid without his approval; and the township trustees shall also, in like manner, contract with teachers for transferred pupils.

3570. *Visits to schools.* —The township trustees shall visit the schools in their district at least once during each scholastic year.

3571. *Removal of teachers; payment of time.*—The township trustees may, for any cause sufficient in their judgment, terminate the contract of, and remove any teacher; but such teacher shall be allowed pay for the time he taught according to the terms of his contract.

3572. *Register of daily attendance.*—The township trustees shall require the teachers of public schools to keep a register of the daily attendance of the pupils in the schools taught by them, and to submit such register to them for their inspection.

3573. *Enumeration of children.*—The township trustees must, during the month of July, of each odd year, make an enumeration of all the children, white and black, male and female, within the educational age, in their township or district, and report the same in duplicate to the county superintendent of education by the first day of August following; and the county superintendent of education shall make to the superintendent of education a written report of the several enumerations made to him by the township trustees by the fifteenth day of August of such year.

3574. *New enumeration in certain cases.*—If the township trustees in any county or township should fail in any year to make the enumeration provided for in the preceding section, or if the superintendent of education of the State should have reason to believe that the enumeration made and returned to his office is fraudulent or greatly erroneous in any county or township, and shall determine that it is for the best interest for the public school system that another enumeration be made in any county or township, he shall have power to procure the making of a new enumeration of the children of school age in any county or township, and shall pay the expense of making the same out of the fund first available and apportioned to the county or township in which such new enumeration is made, as the case may be.

3575. *Exemption from road and jury duty and poll-tax.*—Township trustees are exempted from road duty,

jury duty and poll tax, so long as they shall continue in office and perform the duties thereof; and the certificate of the county superintendent of education shall be evidence of the fact.

Article VI.

TEACHERS.

3578. *Instruction as to the nature of alcoholic drinks and narcotics.*—Every teacher shall give instruction as to the nature of alcoholic drinks and narcotics and their effect upon the human system, and such object shall be taught as regularly as any other in the public schools, and in every grade thereof.

3579. *How long certificates are valid.*—A third-grade certificate shall be valid for two years; a second-grade certificate for four years, and a first-grade certificate for six years, in any county in the State. (As amended.)

3580. *Register kept by teachers and submitted.*—Every teacher of a public school must keep a register of the actual daily attendance of the pupils in his school, and must submit such register to the township trustees for their inspection.

3581. *Quarterly report; not entitled to compensation until forwarded.*—Every teacher of a public school must, within five days after the end of each scholastic quarter, forward to the county superintendent of education, a complete report, setting forth the enrollment, attendance, number of transferred pupils, and from what township transferred, the branches taught, and the number of pupils in each, distinguishing between male and female, and stating whether a white or colored school; also the monthly pay from school revenue from the township in which the school is located, and from transferred pupils, stating the township and range from

which they are transferred; also the number of days taught, the amount due for services from school revenues of the township, the number of visits by township trustees, and the name and postoffice of the teacher; and such report must be sworn to by the teacher before some one of the township trustees, and approved by them; and no teacher can draw any pay for services rendered by him until he has forwarded his report in accordance with the requirements of this section.

3582. *To be paid quarterly.*—The teachers of public schools shall be paid quarterly, on the first Saturdays in January, April, July and October, or as soon thereafter as practicable.

(See amended Act, p. 96 this pamphlet.)

[Schoolmaster stands in local parentis and may, in a proper case, inflict corporal punishment; but is crimnally liable for an abuse of his authority.—Boyd v. State, 88 Alabama 169; McCormack v. State, 102 Alabama 156.]

Article VII.

Boards of education; teachers' institutes.

(See Redistricting Act, Sec. 10, page 84, this pamphlet.)

3583. *Board of education; how constituted; vacancies.*—There shall be established in each county of the State a board of education composed of the county superintendent of education, who shall be the president thereof, and of two teachers, either in private or public schools of the county, who shall be appointed by such superitendent at the beginning of each scholastic year, or as soon thereafter as practicable, and who shall hold office during the present scholastic year, and one of whom shall be appointed secretary; and a majority of the board shall be necessary for the transaction of any business. The county superintendent of education shall have power to fill all vacancies that may occur in such board.

3584. *Meetings of board.*—Such board shall meet quarterly at such times and places as they may designate; but may meet oftener when deemed advisable by them.

3588. *Cause for cancellation of license.*—Whenever it shall appear to the superintendent of education that any teacher to whom a license has been issued has been guilty of intemperance, or of unworthy or disgraceful conduct, his license shall be cancelled, and his name stricken from the registered list of teachers. (Amended.)

3590. *Teachers' institutes to be organized.*—It shall be the duty of the board of education in each county to organize and maintain therein teachers' institutes, one for teachers who are white persons, and one for teachers who are colored persons, to be held at such times and places as the board may prescribe, but there shall not be less than ten licensed teachers in the county of the race for whom such institutes shall be organized.

3591. *Officers and members of institutes; no fee imposed without consent.*—The county superintendent of education shall be president of such institutes, and the members of the board of education shall be the vice-presidents thereof, one of whom shall preside over its meetings in the absence of the president; the other officers thereof may be elected. Every teacher of the county holding a license shall be a member of the institutes organized for his race. But no fee or assessment shall be imposed on a member without his consent.

3592. *Meetings of institutes.*—There shall not be less than three meetings in each year of such institutes, one of which shall be held in the month of September, and at this meeting an address to the teachers shall be made by some person selected by the educational board; and teachers holding licenses shall attend at least one of such meetings.

3593. *Business of institutes.*—The meetings of the institutes shall be devoted mainly to discussions and in-

structions in regard to the methods of teaching and disciplining schools, and to the text-books used, and other matters connected with the schools and school laws.

Article VIII.

Districts; schools; scholastic periods.

3594. *School districts; establishment and supervision; capacity to hold property.*—Every township, and fraction of a township, which is divided by a State or county line, or any river, creek, mountain, or other barrier rendering intercourse between the different portions of the township difficult, and every incorporated city or town having three thousand inhabitants, or more, shall constitute a separate school district; and each of them shall be under a township superintendent as to all matters connected with public schools. Each township or other school district, in its corporate capacity, may hold real and personal property; and the business of such corporations, in relation to public schools and school lands, shall be managed by the township or district trustees. (See Acts of Legislature, 1903.)

3595. *Pupils entitled to instruction in public schools.* Every minor over the age of seven years shall be entitled to admission into, and instruction in any public school of his or her own race or color in this State.

3596. *Child may not attend more than one school.* No child who has attended a public school the number of days to which it is entitled as a pupil in that school shall attend another during the same scholastic year, unless by consent of a majority of the trustees of the township in which such other is situated.

3597. *When non-residents entitled to school privileges.*—Any parent or guardian residing in the State who shall pay a local or special school tax on real estate

valued at five hundred dollars or more, in any city, township or separate school district, shall be entitled to the privilges and benefits of the public schools in such city, township or separate school district, for their children, the same as parents and guardians resident therein.

3598. *Scholastic periods.*—The scholastic year shall begin on the first day of October of each year, and end on the thirtieth day of September of the following year; twenty days shall constitute a school month, and a school day shall not be less than six hours.

3599. *Public examinations, and certificates of pupils.* Public examinations must be held in the public schools at least once in every year; and when the board of education shall be satisfied that any pupil has become thoroughly educated in all the branches of free instruction in any one of such schools, they shall give to him or her a certificate to that effect.

3600. *Separate schools for the two races.*—In no case shall it be lawful to unite in one school children of the white and colored races.

Article IX.

Apportionment of school fund; disbursement.

3601. *Auditor certifies amount of educational fund; superintendent apportions.*—On the first day of October of each year, or as soon thereafter as practicable, the auditor shall certify to the superintendent of education the amount of money which has accrued and been placed by him to the credit of the educational fund for the scholastic year commencing on that day, stating specifically the amount derived from each source, and any unexpended balance there may be from the appropriation of the previous year to be carried forward, and the amount so certified shall be apportioned by the superintendent

of education, and be drawn and disbursed as provided by law.

3602. *Contingent expenses and amount for normal schools set apart; residue apportioned.*—As soon as such certificate is received by the superintendent of education, he shall set apart out of the general fund a sufficient amount to pay such expenses of the department of education as are by law payable out of such fund, and the amount necessary to cover the expenses of normal schools; and he shall then apportion all the balance of such fund as nearly as practicable, among the several townships and school districts in the State, as hereinafter provided.

3603. *Amounts apportioned certified to auditor; no warrants drawn in excess; balance unapportioned certified to treasurer.*—As soon as such amounts have been set apart, and such apportionment has been made, the superintendent of education shall certify to the auditor the amount set apart for each particular purpose or appropriation, and the total amount of the apportionment to the several school districts in each county, and the auditor shall see that no warrants are drawn against the educational fund, for any purpose, for any amount in excess of the amounts so certified as set apart and apportioned; and he shall certify to the treasurer the amount of the school revenue, exclusive of poll tax, unapportioned by the superintendent of education; and the treasurer shall set apart the amount out of any money received from the taxes of the current year, and he shall keep the same separate and apart from all the other revenues, and shall not pay out any of such money except upon warrants for school purposes.

3604. *Interest on sixteenth section or other trust fund first set apart; effect of apportionment.*—In making the apportionment of school money to the several districts, the superintendent of education shall first set apart to each township, or other school district, the amount due from the State thereto as interest on

its sixteenth section fund or other trust fund held by the State; and all townships or other school districts, having an income from such source, or from the lease or sale of sixteenth section lands, shall not receive anything out of the balance of the educational fund to be apportioned, until all other townships or school districts, having no trust fund, shall have received from the general fund such amount as will give them an equal per capita apportionment with the townships or districts having such income.

3605. *Apportionment; basis of, and how made.*—The superintendent of education shall apportion the educational fund to the respective townships or school districas, subject to the provisions of the preceding section, according to the latest official returns of the enumeration of school population of the townships of other districts, which have been made to his office, and according to the entire number of children of school age in each township or school district, but when the township trustees of any township or district have failed to make and return the census enumeration of their township or district as required by law, and when the superintendent of education has not caused a new enumeration to be made, the superintendent of education shall make the apportionment to such township or district, according to the best information he can obtain as to the school population of such township or district; but in no event shall he, in case of such failure, estimate the school population of any such district or township at more than the number shown by the last official report to his office.

3606. *Apportionment recorded, and certified to county superintendents; when contracts for schools invalid.*—As soon as such apportionment is completed, the superintendent of education shall have the same recorded in his office, in books kept for that purpose, showing the amount which has been apportioned to each school district, and the source or sources from which the same was derived, the amount to each district, and the number of children in the district upon which the

apportionment was based; and he shall then furnish to each county superintendent of education a certified copy from such books, showing the dividends of the educational fund to each township or district under the latter's supervision; and the amount so divided and certified shall be the total amount which each of such school district shall be entitled to receive from the State, except the poll tax, during the current scholastic year; and no contract to pay for any school or schools for any district, more than the amount thus apportioned to it, together with such poll tax as it may receive, and such funds as may be in hand from any previous year, shall be valid against the State or township.

3607. *Poll tax received by each county.*—Each county shall receive as school money all the poll tax collected therein; and the same shall be its full distributive share of the aggregate poll tax collected in the State.

3608. *Each township and race entitled to its poll-tax.* Each township or other school district is entitled to receive, for the support of the public schools therein, all the poll-tax raised in and for such township or district; and the county superintendent of education of each county and township trustees of each township shall see that the amount of poll-tax paid by white persons shall be applied exclusively to the maintenance of schools for white pupils, and that paid by colored persons exclusively for the maintenance of schools for colored pupils.

3609. *Amount due each county apportioned and certified to auditor.*—The superintendent of education shall by the tenth day of October in each year, or as soon thereafter as practicable, apportion to every county the amount of school money such county will be entitled to receive for the scholastic year from all sources except such special tax, if any, levied for school purposes in any county; and he shall certify the same to the auditor.

3610. *County superintendents shall make pay-rolls.* On the fifteenth days of March, June, September and

December of each year, the county superintendents of education shall make in duplicate, for each race separately,, a pay roll, showing the names of all teachers engaged in teaching public schools in their counties, with their postoffice address, and the estimated amount that will be due to each teacher at the end of the current quarter from the funds of each township and range in its regular numerical order; and shall append thereto an affidavit that the same is correct. One of such duplicate pay-rolls shall be retained by the county superintendent, and the other he shall forthwith forward to the superintendent of education, who shall examine the same, and if found correct, it shall be approved by him and filed with the auditor. (See page 96 this pamphlet.)

3611. *Auditor shall draw warrant in favor of county superintendent.*—The auditor shall, immediately upon the receipt of such pay-roll, draw a warrant on the State treasurer in favor of the county superintendent of each county for a sum which will be equivalent to the amount estimated to be due on said pay-roll, and four per centum thereon, and shall file said warrant, together with the pay-roll upon which it is based, with the treasurer, whereupon it shall be the duty of the treasurer to forward by express or exchange, at the expense of the State, the amount of such warrant, and the pay-roll and duplicate receipts for said sum, including the express charge or exchange premium, if any. The county superintendent of education must immediately upon receipt of said sum, sign the duplicate receipt and return one to the treasurer, who shall attach it to the appropriate warrant, and the other shall be returned to the auditor.

3612. *Teachers paid and receipts taken.*—Immediately upon the receipt of the county superintendent of the amount of the quarterly or monthly pay-roll, he shall pay the teachers, taking their receipt therefor on both copies of said pay-roll, and must by the fifteenth day of January, April, July and October, return one copy of such receipted pay-roll to the superintendent of education.

3613. *Auditor must prepare blanks.*—The auditor must prepare the necessary blank pay-rolls, receipts and warrants to be used in carrying out the provisions of this article.

3614. *Where teachers are paid monthly.*—In those counties and separate school districts where teachers are required by law to be paid monthly, it shall be the duty of the county superintendent, or the superintendent of the separate school district, as the case may be, to make out and forward to the superintendent of education on the twentieth day of every month, a pay-roll as provided in this article, and the superintendent of education, the auditor and the treasurer shall each, severally, perform all the acts and duties required of them in this article as in other cases.

3615. *Balance in hands of county superintendent charged to him.*—Upon the return of the receipted pay-roll to the superintendent of education, if it should appear that there is a balance in the hands of the county superintendent, the amount of such balance shall be charged to him and shall be deducted from the amount of the next quarterly or monthly pay-roll.

3616. *County superintendent failing must be removed.*—Any county superintendent, or superintendent of any separate school district, who fails to make and return any pay-roll required by this article, or who fails to sign and return the receipts herein provided for, or who fails to pay the teachers within fifteen days after the receipt by him of the money, or who fails to return the receipted pay-roll, must be removed from office by the superintendent of education.

3617. *Apportionment and expenditure of local school money.*—All local school funds, raised for the support of public schools, by taxation or otherwise, shall be apportioned and expended in the district or districts in and for which the same were raised, under such rules and regulations as the township trustees, or other local authority

provided by law, may prescribe; but this section shall not be construed to repeal any provision for the apportionment and disbursement of the moneys mentioned in this chapter, or provided for in special or local laws; and all funds contributed by private parties, or otherwise, to such district shall be applied as indicated in the grant from such contributors; and no school moneys distributed to the various counties from the State school revenue shall, either directly or indirectly, be paid for the erection of school houses, for the use of schoolroom furniture, or any other contingent expenses of schools.

3618. *Apportionment of income from trust fund when township divided.*—Whenever a township, which has income from a trust fund, is divided by a State or county line, or otherwise, into separate districts, or includes a city which is a separate school district, such income must be divided between, and apportioned to each school district in such township according to the school population of each.

3619. *Funds unused for two years apportioned by county superintendent.*—The county superintendent of education shall, in the same manner as the superintendent of education is required to apportion the general school fund, apportion among the school districts under his supervision all funds received by him for any particular school district or race which have remained unused by such district or race for two years; and he shall make a report of such apportionment to the superintendent of education as soon thereafter as practicable.

3620. *Fund once apportioned, not used for other purposes until reapportioned.*—Funds which have accrued and have been apportioned to any district or race, shall not be used for the benefit of any other district or race, until the same shall have reverted to the general fund, and been reapportioned under the provisions of the last preceding section.

3621. *What part of income new districts are entitled to.*—Whenever any separate school district is created,

which shall embrace parts of two or more townships, such district shall receive its proportionate share of the income from any trust fund belonging to either or both of such townships, according to its school population.

3622. *Contingent fund for department of education.* The State treasurer shall annually set apart, out of any money in the treasury not otherwise appropriated, the sum of one thousand dollars, as a contingent fund for the department of education; and whenever it shall become necessary to draw on such fund, the superintendent of education shall certify the amount necessary, and for what purpose, to the auditor, who shall draw his warrant on the treasurer for such amount. The superintendent of education shall keep an accurate account of all sums which he shall certify to be paid out of such contingent fund, and shall furnish an itemized statement thereof to the Governor each year, with his annual report.

3623. *Unexpended part of such fund credited to next year.*—At the close of each scholastic year, any part of the appropriation for the educational contingent fund, which may not be then expended, shall be carried forward by the auditor and superintendent of education, and placed to the credit of, and become a part of the one thousand dollars appropriated for the educational contingent fund of the next succeeding year.

Article X.

TOWNSHIP CORPORATIONS.

3624. *Incorporation of townships.*—The inhabitants of each township in the State are incorporated by the name of "Township ——, in range ——," according to the number of surveys of the United States.

Article 11.

SCHOOL LANDS; LEASE AND SALE.

3625. *What are school lands, and in whom vested.*—School lands, within the meaning of this code, are sections numbered sixteen, in every township, granted by the United States for the use of schools in the township, and such other lands as may have been granted to any township for the use of schools; and all school lands are vested in the State, in trust to execute the objects of the grant.

3626. *Timber lots reserved.*—The township trustees, after the surveys and plats provided for in this article, may select such lots as they may think proper, to reserve from cultivation for the benefit of the timber thereon, and must mark the same "reserved" on the plat thereof.

3627. *Other lands leased; terms of lease.*—The township trustees may lease for not exceeding five years, the lots so laid out and not reserved, and may stipulate for such improvements as they may deem expedient, and may require, if they think proper, security for rents and improvements, the rent is to be paid annually, but in case of improvements, they may stipulate for the rent to commence after the commencement of the lease.

3628. *Rent payable to the township.*—All notes, bonds and contracts for the lease of school lands are to be made payable to the township by its corporate name.

3629. *Lands rented at public auction; notice.*—All school lands must be leased, at some place in the township at public auction; and at least six weeks' previous notice must be given by advertisement at three public places in the township, designating the time and place; and such other notice may be given as the township trustees may deem expedient.

3630. *Duties of lessee.*—The lessee is bound to treat the land, houses and improvements in a careful and hus-

handmanlike manner; to commit no waste; and he must comply with such further restrictions as the township trustees may deem expedient to insert in the lease; and if such lessee, or any person claiming under him, commits waste, or fails to pay the rent, or to comply with any other stipulation in the lease, the township trustees have the right to declare the lease forfeited.

3631. *Timber lots; how used.*—The lots reserved for timber are for the common benefit of the lessees of the other lots; but no timber must be cut down, injured or destroyed, as long as there is sufficient on the other lots, which the township trustees are to determine; and the lessees must, in no case, cut down, injure or destroy such timber without permission from the township trustees, which may be given on such terms as they may think proper, having due regard for the interest of the township.

3632. *Penalty for injuries to timber.*—Any person who, without authority, cuts down, injures, or destroys, any tree on school lands, shall forfeit and pay for every such tree ten dollars, to be recovered before any court having jurisdiction, in the corporate name of the township.

3633. *Fines paid into the treasury for school fund.* All fines and forfeitures under the preceding section shall be paid into the State treasury, and added to the principal of the school fund of the township.

3634. *Report of income from school lands.*—When any part of the sixteenth section or other school lands in any township has been rented or leased, it shall be the duty of the township trustees to report at once to the county superintendent in writing a description of the lands, to whom rented or leased, the time when due and how the payment is secured. It shall be the duty of the county superintendent, as soon as this report is received by him, to file the same in his office, and to report to the superintendent of education all the facts contained in the

report of the township trustees. It shall be the duty of the township trustees when money is paid to them on such rentings or leases to report at once the amount, and on what account paid, to the county superintendent, whose duty it shall be to report the same to the superintendent of education, being careful to give the unmber of the township and range and for what year the rental or lease money was paid.

3635. *Election as to sale of school lands.*—The township trustees of any township may, on giving twenty days' notice by advertisement in three of the most public places therein, hold an election to ascertain the sense of the township respecting the sale of school lands belonging thereto, and may appoint the place where such election is to be held; and three inspectors to manage the same.

[Tankersly v. State Bank, 6 Ala. 277.]

3636. *Oath of inspectors of election.*—The inspectors, before holding such election, must take an oath to conduct the same fairly, which may be administered by one to the other; and they must appoint clerks.

3637. *Absence of inspectors.*—If any inspectors are absent, those present may supply their places, and if none attend, any three freeholders or householders of the township may act.

3638. *Polls.*—The polls are to be opened at eleven in the morning and closed at five in the afternoon.

3639. *Manner of voting.*—Voters may prepare their own ballots, notwithstanding any general law to the contrary, and must write thereon, "Sale," or "No Sale," and deposit them in the ballot box; and the inspectors, after ascertaining the result, must certify the same to the township trustees, who must declare the result.

3640. *If majority for sale, survey made, and minimum price fixed.*—If, on such election, a majority of the

legally qualified voters of the township, voting thereat, are in favor of a sale, the township trustees must have the lands surveyed and divided into lots so as to command the highest price, have a plat of such survey made, and, being sworn to fairly value such lots, fix a minimum price upon each.

3641. *Plat to be kept open to inspection.*—Such plat, with the minimum price marked upon each lot, is to be kept by the township trustees open to the inspection of all persons desiring to examine the same.

3642. *Notice of sale.*—As soon as the lands are surveyed, the township trustees must give thirty days' notice of the time and place of sale by advertisement at three public places in the township and in such other mode as they may think proper.

3643. *Sale at public auction; terms of sale.*—On the day appointed for the sale, between the hours of eleven in the morning and two in the aftrnoon, each lot must be offered separately, and sold at public auction to the highest bidder at or above the minimum price. If such minimum price is fifty dollars, or under, the sale must be for cash; if the minimum price is over fifty dollars, but not more than one hundred and fifty dollars, the sale must be on a credit of one year, unless the amount bid for the lands should exceed one hundred and fifty dollars, in which event the sale must be on a credit of one and two years, in equal annual installments; if the minimum price or the amount bid for the lands, is one hundred and fifty dollars, or over, but less than three hundred dollars, the same must be on a credit of one and two years, in equal annual installments; if the minimum price, or the amount bid for the lands is over three hundred dollars, but less than five hundred dollars, the sale must be on a credit of one, two, and three years, in equal annual installments; and if the minimum price, or the amount bid for the lands, is five hundred dollars, or more the sale must be on a credit of one, two, three and four years, in equal anual installments; when the sale is on

a credit the purchaser must give his notes, with two or more sureties, approved by the township trustees, payable to the State of Alabama, for the use of the township, designating it by its number and range, and specifying by the legal subdivisions, the particular portion or portions of the section for which the notes are given. All notes for purchase of school lands, sold under the provisions of this article, must bear interest at the rate of eight per cent. per annum from date.

3644. *Provisions directory.*—The provision of this article in relation to the sale of school lands, must be construed as directory only.

3645. *Report of sale, disposition of purchase money and notes.*—The township trustees, within twenty days after such sale, must make return thereof to the superintendent of education, specifying the date of the sale, the names of the purchasers, the quantity and a particular description of the land sold to each, the price paid, or to be paid, by each purchaser, and the amount of the purchase money retained to defray the expenses of the survey and sale; and they must, at the same time, pay over to the superintendent of education all the money which may have been received by them as purchase money for such lands, after deducting such amount as they may be allowed by law to retain to defray the expenses of the survey and sale; and also, at the same time, turn over to the superintendent of education all notes which may have been taken by them for such lands; and the superintendent of education must give them a receipt for such money and notes, and file the return and notes in his office and make proper record of the notes.

3646. *Resale of lands.*—If any purchaser fails to make the payment, or to give notes with approved sureties, as required, the land bid off to him must be immediately resold, if practicable, but if it is not practicable to make the resale at once, it must be advertised and resold at a future day, as if no sale had been made; and the first purchaser shall be responsible for the differ-

ence between his bid and the amount for which the land is subsequently sold, if such amount is less than the bid of such first purchaser.

3647. *Certificate of purchase.*—The township trustees on receiving from the purchaser the cash payment, and his notes for the deferred payments, must give to him a certificate of purchase, describing the land purchased, and showing the number of acres, and the amount of the purchase money.

3648. *Effects of certificate of purchase.*—Such certificate conveys to the purchaser, his heirs, or assigns, a conditional estate in fee, to become absolute on the payment of the purchase money and interest, and to revert to the State for the uses originally granted in the following cases:

1. When all the notes have become due, and the makers have left the State, or died insolvent.
2. When a recovery on such notes is defeated by any defense avoiding the contract of sale.
3. When a recovery is had against all the makers, and execution has been returned "no property" by the proper officers of the county in which the township lies; or when judgment is had, and execution returned against any one or more or such makers "no property," and the others have left the State, or died insolvent.

3649. *Revesting of title; clerk to certify facts; penalty for failure; costs.*—No proceeding is necessary to revest the title in the State on the happening of the events specified in the preceding section, but such lands may be recovered in the name of the State, for the use of the township, against any person in possession of the same, upon proof of the facts; and it is the duty of the clerk of the court in which the suit was pending, or the judgment recovered, to certify the facts to the superintendent of education, on the happening of the events specified in the second and third subdivisions of the preceding section, and falling to do so within a reasonable time he forfeits the sum of one hundred dollars; one-

half to the person suing for the same, and the other to the State for the use of he township. When no money is recovered in suits on notes for the purchase money of school lands no cost must be taxed against the township for such suits.

3650. *Compensation to township trustees; penalty for certain defaults.*—For holding the election and making the sale as provided in this article, the township trustees shall be entitled to two dollars each, which, together with the amount which may be allowed by law to the county surveyor for making the surveys and plats herein provided for, shall be retained by them out of the purchase money for the lands; and purchasers shall, in all cases, pay enough cash to defray such expenses; and if the township trustees fail to return the sale, or purchase money notes, or to pay over the money received on account of purchase money, to the superintendent of education, as required by law, he shall forfeit one hundred dollars, one-half to the person suing for the same, and the other to the State for the use of the township; and on the trial, the certificate of the superintendent as to such failure is presumptive evidence thereof.

3651. *Fines go to school fund.*—The amount received by the State upon recoveries, had under the last two preceding sections, is to be added to the principal of the school fund of the township.

3652. *Patent.*—A patent issues, on the payment of the purchase money, to the purchaser, his heirs, or assigns, and when the patent is to the heirs, it vests a title in all persons entitled to claim in that capacity under the provisions of this code.

3653. *Issue of patent by Secretary of State; correction or mistake.*—The Secretary of State must issue patents, upon satisfactory evidence furnished him of full payment of purchase money, to any person, agent or officer, legally authorized to receive such payment; and upon proof of a mistake in the issue of any patent, he

must correct the same, or issue a new patent on the return of the original to his office.

3654. *Issue of patents in other cases.*—Except under the provisions of the preceding section, no patent must issue without the certificate of the superintendent of education that the whole amount of the purchase money specified in the certificate, with all interest thereon, has been paid.

3655. *Collection of past-due notes.*—All notes for school lands deposited with the superintendent of education, if not paid within six months after maturity, must be placed with the attorney-general for collection; but this section shall not be so constructed as to prevent the superintendent of education from ordering suit on notes at any time after maturity, when so ordered by the township trustees, or the sureties on the notes.

3656. *Appointment of agents for collection of notes.* The attorney-general may appoint agents for the collection of such notes, being responsible for any neglect on the part of such agents.

3657. *Township credited with collection on notes.* All collections on notes given for the sale of school lands must be paid into the treasury of the State, to the credit of the proper township.

3658. *Proceeds of school lands covered into the treasury; faith and credit of the State pledged for payment of interest.*—All funds now in the State treasury derived from the sale of sixteenth section or other school lands, or which may hereafter accrue from sales of such lands, together with the redemption money of other lands in which former accumulations have been invested under an act approved March 1, 1881, entitled "An act to authorize the compromise and settlement of claims for school lands in this State," are covered into the State treasury and made available for general purposes; and the faith and credit of the State is pledged for the pay-

ment of the interest on such fund to the public schools of the State, at the rate of six per cent. per annum.

3659. *Bonds when lands about to be sold are leased.* When any township trustees are about to sell or lease any school lands, they must give bond with sufficient sureties, payable to the State, in a sum to be fixed by the county superintendent of education, equal to the value of the school lands or the amount of the school funds of their township, and with condition to discharge their duties faithfully so long as they may continue in office or discharge the duties thereof, which bond must be approved by the county superintendent of education and by him filed in his office.

3660. *By whom duties as to lands perform when township divided.*—When a township is divided into two or more school districts the county superintendent of education, in appointing township trustees in such township, shall designate which of them shall discharge the duties and exercise the powers conferred upon township trustees touching the leasing, selling and control of school lands in each school district.

Article XII.

LEASE AND SALE OF SCHOOL INDEMNITY LANDS.

3661. *Sale of school indemnity lands authorized.*—The superintendent of education is authorized and empowered to sell and dispose of all the lands whch have been heretofore or may hereafter be certified by the State for the use and benefit of the several townships in which there was a deficiency in the amount of land originally certified in the State for their benefit, subject to the approval of the Governor.

3662. *Proceeds of sale; how disposed of.*—The proceeds arising from such sales, after the payment of all proper costs and expenses thereof, shall be, by the super-

intendent of education paid into the State treasury to the credit of the township to which the same may belong, in the proportion of their interest therein.

3663. *Notes taken by superintendent of education held until paid; when placed with the attorney-general.* All notes taken by the superintendent of education for the purchase of such lands must be held by him until the same are due, and if not then paid, may be placed with the attorney-general for collection.

3664. *Manner and terms of sale.*—Such sales may be made from time to time, at public or private sale, as in the judgment of the superintendent of education shall best promote the interest of the school fund of the State, and shall be for cash, or part cash and part on time, as the superintendent of education and the governor may deem best; but in no case shall there be less than one-fourth of the purchase money paid in cash, and the remainder shall be payable in yearly installments to extend over a period of not more than three years, and shall be secured by notes wth sureties to be approved by the superintendent of education and shall bear interest from the date of the sale.

3665. *Lease of school indemnity lands.*—The superintendent of education may, with the approval of the Governor, lease out any of such lands for a term not exceeding five years, or may enter into contracts permitting persons to mine ore, coal or other minerals therefrom, upon a royalty, for a term not exceeding twenty years; and the net proceeds of all moneys received from the lease of such lands, or as a royalty for the minerals mined therefrom, shall at the end of each fiscal year be paid into the State treasury to the credit of the townships to which such lands belong, in the proportion of their interest therein.

3666. *Provisions applicable.*—The provisions of the preceding article relating to trespasses upon school land

resale, certificate of purchase, revesting title, patent, and the collection and application of proceeds of sales, apply to sales under this article so far as applicable.

LAWS NOT IN CODE OF 1896.

An Act

To establish a uniform system for the examination and licensing of teachers of public schools. Approved February 10, 1899; amended February 8, 1901.

Section 1.—*Be it enacted by the General Assembly of Alabama,* That there shall be constituted a State Board of Examiners, to be composed of the Superintendent of Education, who shall be President of the Board, and two other persons to be appointed by him, who shall be teachers of extensive experience and recognized ability. The term of office of said board shall be co-equal with that of the superintendent of education.

Sec. 2. (*As Amended*).—*Be it further enacted,* That the said State Board of Examiners shall meet during the months of November and May of each year, and shall prepare questions for the examination of teachers .

Sec. 3. (As amended).—*Be it further enacted,* That the President of the State Board of Examiners shall cause lists of the questions so prepared to be printed, and shall on or before the 15th day of December and June of each year send to each person appointed to conduct examinations in the counties of the State a sufficient number of the lists of questions so prepared and printed for the conducting of the examinations in their respective counties as hereinafter provided; that the questions so sent shall be enclosed in a sealed envelope, on the back of which shall be plainly written or printed the words, "Questions for the examination of teachers." The seal of said envelope shall not be proken except as hereinafter provided.

Sec. 4. (As amended).—*Be it further enacted,* That the first Mondays in January and July be appointed for

the examination of teachers. The examination may be continued from day to day for three consecutive days, if such continuance shall be necessary for the completion of the work of examination, but no examination shall be begun on any other day than the first day mentioned in this section. No examination shall be held at any other time. Provided, that the State Board of Examiners may hold, at the Department of Education in Montgomery, special examinations for the benefit of persons who are prevented from taking the regular examinations by sickness, absence from the State, or other unavoidable cause. Each person taking a special examination shall pay the State Board of Examiners a fee of five dollars. Special examination shall be equal in all respects to the regular examination. Provided, further, that in order to accommodate normal school pupils who are required by this act to take State examination, the State Board of Examiners may hold at such times and places as they may deem advisable an examination for these pupils, and at such examination the regular fees shall be paid by applicants, and no person not a bona fide matriculate of a normal school shall be admitted to the examination.

SEC. 5. (As amended).—*Be it further enacted,* That the regular examination shall be conducted in each county by the county superintendent of education of the same, unless for good and substantial reasons the said State Board of Examiners shall deem it best to select for this service another person appointed for that purpose by the State Board of Examiners, and if he shall be unable, by reason of sickness, or other unavoidable necessity to conduct the same, then by some other competent person appointed for that purpose by him. Said examination shall begin at 10 o'clock a. m., of the day appointed by Section 4 of this act at which hour the person appointed to conduct the examination shall, in the presence of the applicants for the examination, break the seal of the envelope containing the lists of questions, and shall distribute the questions among the applicants. All the applicants shall undergo the examination in the same room, or in sight of the person appointed to conduct the examination. Provided, that the provisions of

this act referring to the special examination of normal school students shall apply only to those who had graduated prior to the passage of this act.

SEC. 6. (As amended).—*Be it further enacted,* That each applicant for examination shall, before entering upon the examination, deposit with the person appointed to conduct the examination an examination fee as follows. An applicant for a third grade certificate, a fee of one dollar; an applicant for a second grade certificate, a fee of one and a half dollars; and applicant for a first grade certificate, a fee of two dollars; an applicant for a life certificate, a fee of three dollars. The fees received from the examination of teachers at regular examinations shall be paid into the State treasury to the credit of the educational fund, and the State auditor shall, on the requisition of the superintendent of education, issue warrants on the State treasurer to be paid out of the educational fund, for the purpose of carrying out the provisions of this act, such as the payment of expenses for postage, for expressage, for clerk hire, for State Board of Examiners only; for the per diem of the State Board of Examiners, for paying county conductors and for other incidental expenses incurred in carrying out the provisions of this act. The appointed members of the State Board shall receive five dollars per day, including Sundays, for the time they are engaged in conducting the examination of teachers under this act. The county superintendent or person appointed to conduct the examination in each county shall receive ten dollars for his services in conducting each examination. Provided, that as the available educational fund was apportioned October 1, 1900, an amount equal to the balance after deducting the expenses received from the examination fees, since March 1, 1899, shall be immediately available from the educational fund for the purpose of paying the expenses provided for in this act.

SEC. 7. *Be it further enacted,* That teachers on examination shall not be permitted to sit near enough to each other to read each other's papers, and no teacher on examination shall receive any assistance from any person, or by reference to any book, map, chart or from

any source, and no person shall be licensed to teach who shall endeavor to procure any assistance. And each teacher so examined shall, upon the completion of his examination, sign a statement that he has not received any assistance in said examination from any source; which statement shall be kept on file by the county superintendent of education.

SEC. 8. (As amended).—*Be it further enacted,* That unless the applicant is known to the person appointed to conduct the examination to be of good moral character, or shall make satisfactory proof of the same, which proof shall be in writing, he shall not be admitted to the examination. Any one who habitually uses profane language or intoxicants shall be deemed of immoral character.

SEC. 9. (As amended).—*Be it further enacted,* That there shall be grades of teachers' certificates, besides the life certificate hereinafter provided, to be known as certificates of the first, second and third grades, each of which must show the branches in which the holder has been examined, his relative attainments therein and his general average. In no case shall an applicant for a certificate receive the same who fails to answer fifty per cent. of the questions propounded in any branch and whose general average is below seventy-five per cent. Every teacher in the public school must obtain a certificate prior to his employment.

SEC. 10.—*Be it further enacted,* That applicants for third grade certificates shall be examined in the following branches:* Orthography, reading, penmanship, grammar, practical arithmetic through fractions, primary geography, and the elementary principles of physiology and hygiene [See page 78 of this pamphlet]; and applicants for second grade certificates shall be examined in all the foregoing branches, and also in practical arithmetic, history of Alabama, history of the United States, English grammar and composition, and intermediate geography; and applicants for first grade certificates shall be examined in all the foregoing branches and also in algebra, natural philosophy, geometry, the school laws of Alabama, and theory and practice of teaching.

Agriculture was added to the third grade branches Oct. 10, 1903. (See page 78 this pamphlet.)

SEC. 11.—*Be it further enacted,* That in all examinations under this act the answers shall be written on legal cap paper with pen and ink. The subject or branch shall be plainly written on the top of the page, and the answers shall be numbered to correspond with the questions.

SEC. 12. (As amended).—*Be it further enacted,* That when an applicant shall have completed his examination he shall write his name and address on each paper of the same, and deliver the same to the person appointed to conduct the examination, who shall enclose the papers of each applicant in a separate envelope, together with his certificate of good moral character of the applicant or the written proof of he same, on which he admitted the applicant to examination, and shall transmit the same to the Secretary of the State Board of Examiners without delay.

SEC. 13.—*Be it further enacted,* That the State Board of Examiners shall examine the papers coming to it under the provisions of the preceding section, as expeditiously as possible, and shall mark upon each paper the teachers' grade in that branch according to the correctness or approximate correctness of the answers, and if, upon such examination, it appears that the applicant is entitled to receive a certificate, the Secretary of the Board shall prepare a certificate in conformity with Section 9 of this act. Said certificate shall be signed by the Secretary of the State Board of Examiners and the Superintendent of Education and shall be transmitted to the teacher entitled to the same.

SEC. 14. (As amended).—*Be it further enacted,* That all examination papers shall be kept on file in the office of the Superintendent of Education subject to public inspection for six months. That any person who purloins, steals, buys, receives, sells, gives or offers to buy, give or sell any examination questions or copies thereof before the date of the examination for which they had been prepared, shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than one hundred dollars, and may also be sentenced to hard labor for the county for not less than six months.

SEC. 15.—*Be it further enacted,* That certificates granted under the provisions of this act shall entitle their holder to teach in the public schools of any county in this State for the following periods of time: A third grade certificate, two years; a second grade certificate, four years; and a first grade certificate six years from the date of issuance of the same.

SEC. 16. (As amended).—*Be it further enacted,* That no teacher shall be granted a second grade certificate more than twice.

SEC. 17.—*Be it further enacted, That whenever any* teacher applying for a certificate shall make proof that he has been engaged for ten years in teaching under first grade certificates, which proof the county superintendent of education shall transmit to the State Board of Examiners, and shall show a high degree of proficiency and professional attainment, such teacher may be granted a life certificate, signed as prescribed for other certificates; Provided, that any teacher holding a life certificate shall forfeit the same by leaving off the business of teaching for five consecutive years.

SEC. 18.—*Be it further enacted,* That the Superintendent of Education shall have the power, and it is hereby made his duty to revoke the certificate of any teacher who shall be guilty of immoral conduct, or unbecoming or indecent behavior.

SEC. 19. (As amended).—*Be it further enacted,* That the Secretary of the State Board of Examiners is hereby required to keep a register of all teachers examined and licensed under this act, showing the name and postoffice address of each teacher and the date and grade of his certificate, and keep the same on file in the office of the State Superintendent of Education, and he shall devote his time, when not engaged in the work of examining teachers, to clerical work in the Department of Education.

SEC. 20. (As amended).—*Be it further enacted,* That the provisions of this act as to the time of holding examinations shall not be effective until the first day of April, 1901; provided, that the provisions of this act shall not be construed as to apply to separate school dis-

tricts of two thousand inhabitants or more, having authority at present by their charters to examine their teachers.

SEC. 21. (As amended).—*Be it further enacted,* That all laws and parts of laws, both general and special, in conflict with the provisions of this act, are hereby repealed.

RULES OF THE STATE BOARD OF EXAMINERS.

(These rules are based on the Attorney-General's interpretation of the law.)

First.—The provisions of the examination law do not apply to separate school districts of two thousand inhabitants or more, having authority February 8, 1901, by their charters to examine their teachers.

Second.—Teachers in State schools, acting under special charters giving exclusive control of such school to their boards of trustees, are not subject to examination unless the school shall receive township or district funds, in which case those who teach any of the common school branches and those who share in the distribution of the township or district funds shall procure a certificate.

Third.—All teachers in the public schools of the State, regardless of diplomas held, except those exempted by rules 1 and 2, are hereby subject to examination.

Fourth.—All teachers in the public schools of the State, whether principals or assistants, must hold certificates at the time they begin teaching. Contracts conditioned on the teacher's procuring a certificate at a subsequent examination are illegal, and public funds paid under them will be charged to the county superintendent.

Fifth.—Applicants for first or second grade certificates failing to make the necessary percentage to obtain a certificate in the grade applied for, but making the requisite percentage in the branches required for a lower grade certificate, may be granted such lower grade certificate.

Sixth.—Teachers who procure a low grade certificate may apply for a higher grade certificate at any subsequent examination, but must take the full examination of the grade for which they apply; Provided, that teach-

ers who hold unexpired second grade certificates may apply for a first grade by taking an examination in Algebra, Geometry, Physics, Theory and Practice of Teaching and School Laws of Alabama, (also Agriculture if the second grade certificate was issued prior to January, 1905); and, teachers holding unexpired third grade certificates may be exempted from taking the examination on Penmanship, Orthography, Reading and Physiology (also Agriculture if the third grade certificate shows that the applicant has passed a satisfactory examination in this branch) in making application for a higher grade. In every instance the second and third grade certificates must be filed with the examination papers.

Seventh.—*Special examinations* at Montgomery may be allowed as follows:

(a) To those applicants who were prevented from taking the last regular examination on account of sickness, absence from the State, or other unavoidable cause.

(b) A Second or Third Grade examination may be allowed those First Grade applicants who fail, and substituted their unexpired Second Grade certificates for the Second and Third Grade branches.

(c) A Third Grade examination may be allowed those applicants who make application for a higher grade and fail or Second Grade arithmetic, Second Grade grammar, or Second Grade geography.

In all special examinations a fee of five dollars is required. Application blanks for these examinations will be furnished by the Department of Education.

Eighth.—Whenever there is evidence from the papers that applicants have been in communication or that assistance has been obtained from any source, the applications of all parties concerned will be rejected.

Ninth.—Teachers who have taught ten years under a first grade certificate in Alabama, and who shall show a high degree of proficiency and professional attainment may be granted a first grade certificate for life. The proof of time taught shall be furnished the State Board of Examiners, through the county superintendent, and may be made as follows:

a. By exhibiting to the State Board of Examiners their former licenses.

b. By affidavit from the applicant that he has held a first grade license for ten years.

PROOF OF PROFICIENCY AND PROFESSIONAL ATTAINMENT.

An applicant for a life certificate, as evidence of proficiency and professional attainments, shall, at the time of the regular examination, through the county superintendent, furnish to the State Board of Examiners:

a. A sketch not exceeding five hundred words in length of his school work the last ten years.

b. A thesis on some subject pertaining to the Theory and Practice of Teaching, not exceeding six hundred words in length. The subject for said thesis shall be assigned by the State Board of Examiners as questions are assigned to other applicants.

c. Testimonials from three educators of recognized standng that he has a good character, and has shown a high degree of proficiency and professional attainment.

Tenth.—In the future the State Board of Examiners will not grant a life certificate to an applicant who has not taught since February 10, 1899; or, to one who has been granted a lower grade than that of a first grade certificate since that time, unless at some subsequent examination the applicant was granted a first grade certificate.

INSTRUCTIONS REGARDING EXAMINATION LAW.

Examinations will be held in each county of the State beginning on the first Monday in January and July and may continue three days. Regular examinations will be held at no other time.

1. It is the duty of the State Board of Examiners to prepare questions and furnish them to county superintendents, to examine and grade the papers and to issue certificates to teachers.

2. On the day set for the examination, the county superintendent shall at 10 o'clock a. m., in the presence of the applicants, break the seal of the package containing the questions. He shall, unless some other person has been appointed by the State Board of Examiners conduct the examination, unless he shall be unable to do so by reason of sickness or other unavoidable necessity, in which case the examination shall be conducted by some competent person appointed by him. All applicants shall undergo the examination in the same room, or in sight of the superintendent or other person appointed by him to conduct the examination. (Two rooms with connecting door or doors may be used). The sum of ten dollars is allowed each county superintendent for conducting the examination.

3. No applicant shall sit near enough to another to read his paper. No applicant that receives, gives or endeavors to procure or give assistance directly or indirectly will be granted a certificate, and it is the duty of the county superintendent or other person appointed to conduct the examination to advise the State Board of Examiners if this rule is violated.

4. Unless the applicant is known to the county superintendent of education to be of good moral character, he shall make satisfactory proof of the same in writing and

without such proof he shall not be admitted to examination. Any one who habitually uses profane language or intoxicants is, by the law, deemed of immoral character. The proof submitted by the applicant or the county superintendent's certificate must accompany the examination report.

5. When the examination is completed, each applicant shall sign a certificate that he has neither given nor received any assistance in the examination; which statement shall be kept on file by the county superintendent.

6. Answers must be written on legal cap paper with pen and ink. (All stationery to be furnished by the applicant.) That the paper in each county may be uniform in size, color, quality, etc., each county superintendent is advised to procure a supply and furnish it to teachers at a reasonable price.

The subject or branch must be plainly written at the top of the page, and each answer numbered to correspond with the question. On each paper of his examination the applicant must write his name and address. When the examination is completed the county superintendent must immediately forward the papers to the Secretary of the State Board of Examiners, at Montgomery. The papers of each applicant must be in a separate envelope and sealed, on which should be written his full name, address, color, sex and for what grade applying. County superintendents will be allowed to deduct from fees received the amounts necessary to send papers to Secretary of Board.

7. The county superintendent or examiner must make out a list of all applicants and place opposite the name of each applicant the grade applied for, color and sex of the applicant. *This list must be sent under separate cover to the Secretary of the Board of Examiners.*

8. Applicants shall, before starting upon the exami ination, deposit with the county superintendent or other person appointed to conduct the examination, fees as follows: For third grade, one dollar; for second grade, one and one-half dollars; for first grade, two dollars; for life certificate, three dollars. The fees shall be paid into the State treasury to the credit of the public school fund.

9. Four grades of certificates will be issued, viz: first, second, third and life. A third grade certificate is

good for two years; a second for four years; a first for six years; a life for life. Second grade certificates will be issued to the same teacher but twice. Life certificates will be issued under rule 8.

10. Applicants for third grade certificates will be examined on the following branches: Orthography, reading, penmanship, grammar, practical arithmetic through fractions, primary geography, the elementary principles of physiology and hygiene, and *agriculture; applicants for second grade certificates will be examined in all the foregoing branches, and also in practical arithmetic, history of Alabama, history of he United States, English grammar and composition, and intermediate geography; applicants for first grade certificates will be examined in all the foregoing branches, and also in algebra, natural philosophy, plane geometry, school laws of Alabama, and the theory and practice of teaching.

11. The examination in penmanship will be of such a nature that a teacher who is familiar with any system can take it.

12. Letters or papers of any other character should not be enclosed with answer papers.

13. Applicants who are absent at the beginning of the examination must not be admitted to the examination.

14. Superintendents shall distribute questions on a given subject to all applicants at the same time, and no other questions shall be distributed until all who are answering these questions shall have completed and turned in their papers. For instance, the third grade orthography papers will be distributed, and no other third grade questions will be distributed until all third grade applicants have completed orthography. So with the other subjects. The schedule sent to the superintendent or examiner by the Board of Examiners must be strictly adhered to in conducting the examination. If an applicant absents himself from the room before any subject is competed he will hand in his paper on that subject, which will be his examination.

15. No question prescribed by the State Board of Examiners shall be set aside, nor shall queries regarding

*See Page 78 of this Pamphlet.

the interpretation of questions be answered by the county superintendent or examiner.

16. In case the county superintendent wishes to take the examination, he will appoint some other competent person to conduct the examination, and this person so appointed shall have all the powers and duties of the county superintendent as to collecting fees, papers, etc., and returning the answer papers to the Secretary of the State Board of Examiners. It is suggested whenever a county superintendent takes the examination, either for a grade or life certificate, that he have nothing to do with the papers, but that he turn the matter over entirely to the person he appoints to conduct the examination.

17. The Board of Examiners suggests that white and colored teachers be examined in separate rooms, with connecting doors, if possible.

18. It will be necessary in a majority of counties for the county superintendent to procure a room with desks for the purpose of examination. The school buildings or other suitable places can be easily obtained for this purpose.

19. County superintendents will send to the Secretary of the State Board of Examiners the names of all teachers in separate school districts who are exempt from examination under rule 1 of the State Board of Examiners, where these districts draw their funds through them.

20. Under the law assistants as well as principals will have to procure certificates, and county superintendents are urged to see that no principal draws public money unless all his assistants who teach common school branches have certificates. This department will not approve pay rolls for principals unless the names of their assistants are on the register on file in the department of education.

21. County superintendents will give notice through the county press, or in some other way, of the time and place at which the examinations will be had.

22. If it should happen that not enough papers on any subject have been sent, county superintendents, or other person appointed to conduct the examinations, will allow the papers to be passed among the applicants.

STATE BOARD OF EXAMINERS:
ISAAC W. HILL, President,
WM. F. FEAGIN, Secretary,
J. NICHOLENE BISHOP, Member.

AN ACT

To fix the minimum length of the term of the free public schools in the State of Alabama.

SECTION 1.—*Be it enacted by the General Assembly of Alabama,* That the free public schools of the State shall be kept open absolutely free of tuition fee to those entitled to share in the distribution of the common school fund, for a period of at least five scholastic months in each scholastic year.

SEC. 2.—*Be it further enacted,* That it shall be unlawful for any township or district trustee to make or any county superintendent of education to approve a contract for a less period than five months, provided that contracts for unexpired terms may be made for a less period; provided, that where it is found absolutely impracticable to make the term five months, trustees may, with the consent of the county superintendent and the approval of the State superintendent of education, make the term for not less than four scholastic months.

SEC. 3.—*Be it further enacted,* That the object of this act is to set the minimum length of the term for which a contract to teach the free public schools of the State can be made, and it shall be the duty of trustees and county superintendents to make the terms longer whenever and wherever it is possible.

SEC. 4.—*Be it further enacted,* That all laws and parts of laws in conflict with the provisions of this act be and the same are hereby repealed.

Approved March 5, 1901.

AN ACT

To repeal section 3586 of the Code of Alabama, and to require holders of diplomas or certificates of proficiency from the State Normal Schools and Colleges, or from other schools and colleges, to undergo the State examination for license to teach in the public schools before teaching in the public schools of the State of Alabama.

SECTION 1.—*Be it enacted by the General Assembly of Alabama,* That on and after the passage of this act Section 3586 of the Code of Alabama be and the same is hereby repeaed.

SEC. 2.—*Be it further enacted,* That all holders of diplomas or certificates of proficiency from the Alabama State Normal Schools or Colleges, or from other schools and colleges, must undergo successfully the regular State examination for teachers in the public schools before teaching the same.

SEC. 3.—*Be it further enacted,* That all laws and parts of laws and special laws in conflict with this act, be and the same are hereby repealed.

AN ACT

To amend Section 3602 of the Code of Alabama.

SECTION 1.—*Be it enacted by the General Assembly of Alabama,* That Section 3602 of the Code of Alabama be amended so as to read as follows, to-wit: 3602 (1005). Contingent expenses and amount for normal school set apart; residue apportioned. As soon as such certificate is received by the superintendent of education, he shall set apart out of the general fund a sufficient amount to pay such expenses of the department of education as are by law payable out of such fund, and also the following amounts for the normal schools, to-wit: For the

Normal Schools at Florence, Troy, Jacksonville, and at Livingston, $10,000 each, and for the other normal schools such sums as are provided by law; and he shall then apportion all the remainder of such fund, as nearly as practicable, among the several townships and school districts in the State, as hereinafter provided.

SEC. 2.—*Be it further enacted,* That all laws and parts of laws in conflict with this act be, and the same are hereby repealed.

Approved September 9, 1903.

FORMS TO BE USED IN THE SALE OR LEASE OF SIXTEENTH SECTION LANDS.

[No. 1.]

NOTE GIVEN BY PURCHASER OF SCHOOL LANDS.

$.....

.....year after date, we either of us, promise to pay to the State of Alabama, for the use of township....., range....., in ..... county, the sum of.....dollars, with interest from date at eight per cent, per annum, for the purchase of..... (specify legal subdivsions) .....of section sixteen of said township.

Witness our hands and seals, this.....day of.....

.....[Seal.]

.....[Seal.]

.....[Seal.]

Approved this.....]
day of.....190..]

.....

.....

.....

Township Trustees Public Schools.

[No. 2.]

THE STATE OF ALABAMA,
.....County.

.....A. D. 190..

The undersigned, township trustees of public schools in and for township....., range....., in said county, hereby certify that on the....day of..... A. D. 190.., they proceed to sell at public outcry (all the preliminary requisites of the law in reference to such sale having been complied with), Lot No..... being the.....northeast quarter of northwest quarter of section sixteen, in said township, containing .....acres, and at said sale.....being the highest bidder, became the purchaser of said tract, and for the sum of.....dollars, for which he gave his.....several notes, each for.....dollars with interest from date of said sale, with..... and.....as his sureties.

.....
.....
.....
Township Trustees Public Schools.

[No. 3.]

REPORT OF SALE OF SCHOOL LANDS.

To.....
Superintendent of Education
for the State of Aabama.

The undersigned, Township Trustees of public schools in and for township...., range....., ...county, Alabama, respectfully represent and report that on the ....day of..... 190...., they proceeded to sell at public outcry (all the preliminary requisites of the law in reference to such sale having been complied with), Lot No.....being the..... (the northeast quarter of northwest quarter of as the case may be)

acres; that at said sale.....
being the highest bidder, became the purchaser of said tract, at and for the sum of.....dollars (said sum being at or above the minimum price fixed on said tract) for which he gave his ..... several notes, each for ..... dollars, with interest from date of sale at eight per cent, per annum, with.....
..... and .....
as his sureties. That said ..... paid in cash the sum of ..... dollars. The undersigned retained the sum of ..... dollars from such cash payment to defray the expenses of the survey and sale of said lands, and the balance to-wit: .....
..... dollars, together with said notes above described, is herewith enclosed.

All of which is respectfully submitted.

This..... day of.....190..

.....
.....
.....

Township Trustees Public Schools.

[No. 4.]

BOND TO BE GIVEN BY TOWNSHIP TRUSTEES ABOUT TO SELL OR LEASE SCHOOL LANDS.

THE STATE OF ALABAMA,
.....County.

Know all men by these presents, That we.....
..... are held and firmly bound unto the State of Alabama in the sum of.....
.....dollars, for the payment of which well and truly to be made, we bind ourselves and each of us, our and each of our heirs, executors and administrators, jointly and severally, firmly by these presents. Sealed with our seals, and dated this.....day of ..... A. D. 190...

The condition of the above obligation is such that whereas, the above bound.....were on

the ..... day of ....., appointed Township Trustees of public schools, in and for township.... range..... in said county; and whereas, the said.... ..... as such township trustees of public schools, are about to sell (or lease) school lands of said township.

Now, if the said ..... as such township trustees of public schools, shall discharge their duty faithfully, so long as they may continue in office, or continue to discharge any of such duties, then this obligation to be void—otherwise to remain in full force.

.....[Seal.]
.....[Seal.]
.....[Seal.]
.....[Seal.]
.....[Seal.]
.....[Seal.]

Taken and approved this..day of.....A. D. 190..

.....
County Superintendent of Education.

[No. 5.]

LEASE OF SCHOOL LANDS.

THE STATE OF ALABAMA,
.....County.

This agreement, made this .... day of ..... A. D. 190.. between ..... and ....., township trustees of public schools in and for township ...., range ...., in said county, and ..... witnesseth, that in consideration of ..... dollars, to be paid by said ..... to the township trustees of public schools for said township, on the .... day of ..... A. D. 190...., and each year thereafter during the continuance of the lease, for which the said ..... has given his several promissory notes payable as aforesaid, and bearing even date with

this instrument, the said township trustees have granted, demised, leased, and to farm let, unto the said..... ....., his representatives and assigns, section sixteen (or southeast quarter of the southwest) quarter of section sixteen, as the case may be), in said township, in said county and State; to have and to hold unto the said ....., his representatives and assigns, for the term of ..... (not exceeding five) years, from the .... day of ..... 190... The said ..... agrees to deliver up the premises aforesaid with the appurtenances, on the last day of the term, or other earlier termination of the estate hereby granted, to the said township trustees or their successors in office. In witness whereof, the said parties have hereunto set their hands and seals the day and year above written.

Attest:

.....[Seal.]
.....[Seal.]
.....[Seal.]
.....[Seal.]
Township Trustees.

No. 164.) AN ACT (S. 127

To create a Text-Book Commission, and to procure for use in the public schools in this State a uniform series of text books; to define the duties and powers of said commisssion and other officers; to make an appropriation for the carrying into effect this act, and to provide punishment and penalties for the violation of the same.

SECTION 1.—Be it enacted by the Legislature of Alabama, That the governor, State superintendent of education, and three eminent teachers of the State, who shall have a practical knowledge of the public school system of the State and the methods of teaching therein, to be appointed by the governor, shall be and hereby constituted the School Book Commission of the State of Alabama, whose duty it is to select and adopt a uniform series or system of text-books for use in the public schools of this State. Said commission is hereby authorized, empowered, and directed to select and adopt a uniform system or series of text-books for use in the public schools in this State as above indicated, and when so selected and adopted the said text books shall be used for a period of five years in all the public schools of this State, and it shall not be lawful for any school officer, director or teacher, to use any other books upon the same branches other than those adopted by said State Text Book Commission. Said uniform series shall include the following branches of study, to-wit: Orthography, reading, writing, arithmetc, geography, grammar, language lessons, history of Alabama containing the Constitution of the State, history of the United States, physiology and hygiene, elementary geology of Alabama, elementary principles of agriculture, elements of algebra, elements of plane geometry, elements of natural philosophy, bookkeeping, elements of civil government, rhetoric and higher English, and such

other branches of study as said commission may select and designate; Provided, that none of said text books shall contain anything of a partisan or sectarian character. Before transacting any business relating to the duties of this commission they shall each take an oath before some person authorized to administer oaths, to faithfully discharge all the duties imposed upon them as members of said school book commission, and that they have no interest, direct or indirect, in any contract that may be made under this act, and will receive no personal benefit therefrom.

Provided, further, that for cities and towns having a population of 5,000 or more, said commission may select and designate such books and such branches of study as the conditions existing in such cities and towns may require.

Section 2.—There shall be a sub-commission of five to be selected as follows: A president or member of the faculty of one of the normal schools of the State; a president or member of the faculty of one of the agricultural schools; a superintendent of one of the city schools; and two teachers of the common schools, each one of whom shall be appointed by the governor.

Section 3.—It shall be the duty of said sub-commission to report to the commission at such time said commission shall direct, the books which they recommend for adopton, arranging each book in its class or division, and reporting them in the order of their merit, pointing out the merits or demerits of each book, and indicating what book they recommend for adoption first; what book is their second choice; and what their third choice, and so on, pursuing this plan, with the books submitted upon each branch of study, and if said sub-commission shall consider such books upon the same subject, or of the same class or division of approximately equal merit, all things being equally considered, they shall so report, and if they consider any of the books offered are of such class as to make them inferior and not worthy of adoption, they shall in their report so designate such books, and in said report they shall make such recommendation and suggestions to the commis-

sion as they shall deem advisable and proper to make. Said report shall be kept secret and sealed up and delivered to the secretary of the commission and said report shall not be opened by any member of the commission until the commission shall meet in executive session to open and consider the bids or proposals of publishers or others, desiring to have books adopted by said commission. Each member of said sub-commission before entering upon the discharge of his duties, shall take and subscribe an oath to honestly, conscientiously, faithfully, and to the best of his ability discharge said duties, and that he is not directly or indirectly in any manner interested in the proposed contract, nor in any books or publishing concern publishing any books of the kind or character contemplated for use in the public schools of this or any other State, and that he will examine all books submitted carefully and faithfully and make true report thereon, as herein directed and prescribed, said oath shall be filed in the office of said secretary of State.

Section 4.—Said text book commission shall herein consider said report in its selection and adoption of the uniform series of text books, and shall also themselves consider the merits of each book, taking into consideration their subject-matter, the printing, binding, material and mechanical qualities, and their general suitability and desirability for the purpose intended as well as the price of said books, and they shall give great consideration and weight to the report and recommendation of said sub-commission; Provided, That no text-book, the subject matter of which is of inferior quality, shall be adopted by the text book commission. Said commission shall select and adopt such books as will, in their best judgment, accomplish the ends desired, and they are hereby authorized and directed, in case any book or books are deemed by them suitable for adoption and more desirable than other books of the same class submitted, and they further consider the price at which the books are offered to be unreasonably high and that they should be offered at a smaller price, to immediately notify the publisher or offer of such book or books of their decision and request such reduction in price as they

deem reasonable and just, and if they and such pubisher shall agree on a price they may adopt his book or books, but if not they shall use their own sound judgment and discretion whether they will adopt that, or the books which are deemed by them next best in the list submitted, and when said text book commission shall have finished with the report of said sub-commission, the said report shall be filed and preserved in the office of the State Superintendent of Education, and shall be open at all times for public inspection.

Section 5.—Be it further enacted, That said text book commission shall immediately after the passage of this act, meet and organize, the governor being president of the commission and the superintendent of educaton secretary and executive officer of said commission. As soon as practicable, not later than thirty days after its organizaton, the commission shall advertise, in such manner and for such length of time and at such places as may be deemed advisable that at a time and place fixed definitely in said advertisement, sealed bids or proposals will be received from the publishers of school text books for furnishing books to the public schools in the State of Alabama, through agencies established by said publishers in the several counties, and places in counties in the State, as may be provided for in such regulations as said commission may adopt and prescribe. The bids or proposals to be for furnishing the books for a period of five years and no longer, and that no bid for a longer period will be considered, said bill shall state specifically and definitely the price at which the books will be furnished, and shall be accompanied by one or more specimen copies of each and every book proposed to be furnished, and it shall be required of each bidder to deposit with the treasurer of the State a sum of money such as the commission may require, not less than five hundred dollars, nor more than twenty-five hundred dollars, according to the number of books each bidder may propose to supply, and notice shall further be given in said advertisement that such deposits shall be forfeited absolutely to the State if the bidder, making the deposit shall fail or refuse to make and execute such contract

and bond as is hereinafter required, within such time as the commission may require, which time shall also be stated in said advertisement. All bids shall be sealed and deposited with the Secretary of State, to be by him delivered to the commission when they are in executive session, for the purpose of considering the same,, when they shall be opened in the presence of the commission.

Section 6.—Be it further enacted, That it shall be the duty of the said text book commission to meet at the time and place designated in such notice or advertisement and take out the sample or specimen copies submitted, upon which the bids are based and refer and submit these to the sub-commission as provided for and directed in previous section of this act, with instructions to said sub-commission to report back to them at a time specified, with their report, classification and recommendation as provided in previous section of this act. When the said report is submitted it shall be the duty of said text book commission to meet in executive session to open and examine all sealed proposals submitted and received in pursuance of the notice or advertisement provided for in Section 2 of this act. It shall then be the duty of said commission to examine and consider carefully all such bids or proposals, together with the report and recommendation of the sub-commission and determine in the manner provided in Section 1 of this act what book or books shall be selected for adoption, taking into consideration the size, quality as to subject-matter, material, printing, binding, and the mechanical execution and price, and the general suitability for the purpose desired and intended; provided, however, That all books selected or adopted shall be written or printed in English. After their selection for adoption shall have been made, the said commission shall, by registered letter, notify the publishers, or proposers, to whom the contracts have been awarded, and it shall be the duty of the attorney-general of the State to prepare the said contract or contracts in accordance with the terms and provisions of this act, and the said contract shall be executed by the Governor and Secretary of State, with the seal of the State attached upon the part of the State of

Alabama, and the said contract shall be executed triplicate, one copy to be kept by the contractor, one copy by the secretary of the text book commission, and copied in full in the minute book of said commission, and one copy to be filed in the office of Secretary of State, at the time of the execution of the contract aforesaid the contractors shall enter into a bond in the sum of not less than ten thousand dollars, nor more than thirty thousand dollars, payable to the State of Alabama the amount of said bond within said limits, to be fixed by said commission, conditioned for the faithful, honest and exact performance of his contract, and shall further provide for the payment of reasonable attorney's fees in case of recovery in any suit upon the same, with three or more good and solvent sureties, actual citizens and residents of the State of Alabama, or any guaranty company authorized to do business in the State of Alabama may become the surety on said bond, and it shall be the duty of the attorney-general to prepare said bond and approve the same; Provided, however, That said bond shall not be exhausted by a single recovery, but may be sued on from time to time, until the full amount thereof shall be recovered, and the said commission may at any time, by giving thirty days' notice, require additional security or additional bond within the limits prescribed. And when any person, firm or corporation shall have been awarded a contract and submitted therewith the bond as required hereunder the commission, through its secretary, shall so inform the treasurer of the State, and it shall be the duty of the treasurer to return to such contractor the cash deposit made by him, and the said commission, through its secretary, shall inform the treasurer of the names of the unsuccessful bidders or proposers, and the treasurer shall upon receipt of this notice return to them the amount deposited in cash by them at the time of the submission of their bid, but should any person, firm, company or corporation fail or refuse to execute the contract, and submit therewith his bond as required by this act within thirty days of the awarding of the contract to him and the mailing of the registered letter containing the notice, provided the mailing of the

registered letter shall be sufficient evidence that the notice was given and received, the cash deposit will be deemed, and is hereby declared forfeited to the State of Alabama, and it shall be the duty of the treasurer to place said cash deposit in the treasury of the State to the credit of the general school fund, and provided, further, that any recovery had on any bond, given by any contractor, shall enure to the benefit of the said fund of the State, and when collected shall be placed in the treasury to the credit of the said fund and be prorated among the several counties of the State.

Section 7.—Be it further enacted, That the books furnished under any contract shall at all times during the existence of the contract be equal to, in all respects, the specimens or sample copies furnished with bids; and it shall be the duty of the Secretary of State to carefully preserve in his office as the standard of quality and excellence to be maintained in such books during the continuance of such contracts the specimen or sample copies of all books which have been the basis of any contract, together with the original bid or proposal and the contractor shall, also, furnish each county superintendent of education like specimen or sample copies which shall be preserved by him in like manner, and the same shall always be open to the inspection of the public. It shall be the duty of all contractors to print plainly on the back of each book the contract price, as well as the exchange price at which it is agreed to be furnished, but the books submitted as sample or specimen copies with the original bids shall not have the price printed on them before they are submitted to the sub-commission. And the said text book commission shall not in any case, contract with any person or publisher for the use of any books which are to be sold to patrons for use in any public school in this State, at a price above or in excess of the price at which such book or books are furnished by said person or publisher under contract to any State, county, or school district in the United States, under like conditions prevailing in this State and under this act. And it shall be stipulated in each contract that the contractor has never furnished and is not now furnish-

ing under contract any State, county or school district in the United States, where like conditions prevail as are prevailing in this State and under this act the same book or books as are embraced in said contract at a price below or less than the price stipulated in the said contract, and the said commission is hereby authorized and directed, at any time they may find that any book has been furnished at a lower price under contract to any State, county or school district aforesaid to sue upon the bond of said contract and recover the difference between the contract price and the lower price at which they find the book or books have been sold, and in case a contractor shall fail to execute specifically the terms and provisions of his contract, said commission is hereby authorized, empowered and directed to bring suit upon the bond of such contractor for the recovery of all damages, the suit to be in the name of the State of Alabama and the recovery for the benefit of the public school fund, but nothing in this act shall be construed so as to prevent said commission and any contractor, agreeing thereto, from in any manner changing or altering any contract, provided that a majority of the commission shall agree to the change and think it advisable and for the best interest of the public schools of this state. In all matters a majority of said commission shall control.

Section 8.—Be it further enacted, That it shall be always a part of the terms and conditions of every contract made in pursuance of this act that the State of Alabama shall not be liable to any contractor, in any manner in any sum whatever, but all such contractors shall receive their pay or consideration in compensation solely and exclusively derived from the proceeds of the sale of books, as provided for in this act. Provided further, That the commission shall stipulate in the contract for the supplying of any book as herein provided that the contractor or contractors shall take up the school books now in use in this State and receive the same in exchange for new books at a price not less than 50 per cent of the contract price. Provided, Such exchange period shall not continue longer than one year from the date of the contract.

And each person or publisher making a bid for the supplying of any book or books under this act, shall state in such bid or proposal the exchange price at which such book or books will be furnished.

Section 9.—Be it further enacted, That the text book commission shall have and reserve the right to reject any and all bids or proposals if they shall be of the opinion that any or all should for any reason be rejected. And in case they fail from among the bids or proposals to select or adopt any book or books upon any of the branches mentioned in previous section of this act, they may readvertise for sealed bids or proposals under the same terms and conditions as before and proceed in their investigation in all respects as they did in the first instance, and as required by the terms and provisions in this act, or they may advertise for sealed bids or proposals from authors or publishers of text books who have manuscripts of books not yet published, for prices at which they will publish and furnish in book form such manuscripts or for prices at which they will sell such manuscripts, together with the copyright with such books for use in the public schools in Alabama, proceeding in all respects in like manner as before; and provided, that before accepting or rejecting any manuscript, it shall be their duty to take the manuscript and to advertise for sealed bids or proposals for publishing the the same in book form, in like manner as herein provided for, and under the same restriction and condition, and the contract may be let for the publication of all such books or for any one or more separately; and provided, further, that the State itself shall not, under any circumstances, enter into any contract binding it to pay for the publication of any book or books, but in the contract with the owner of the manuscript it shall be provided that he shall pay the compensation to the publisher for the publication and putting in book form the manuscript, together with the cost and expense of copyrighting the same; and provided, further, that in all cases bids or proposals shall be accompanied with the cash deposit of from five hundred to twenty-five hundred dollars as the commission may direct, and as previously

provided in this act. And it is further expressly provided that any person, firm or corporation now doing business, or proposing to do business in the State of Alabama, shall have the right to bid for the contract to be awarded under this act in the manner as follows: In response to the advertisement when made as herein before provided, said person, firm, or corporation may submit in writing bid or bids to edit or have edited, publish, and supply for use in the public schools in this State, any book or books herein provided for, provided that instead of filing said bid or proposal a sample or specimen copy of each book proposed to be furnished, he may exhibit to the commission a manuscript or printed form the matter proposed to be incorporated in any book, together with such a description and illustration of the form and style thereof, as would be fully intelligible and satisfactory to said commission, or they may submit a book or books the equal of which in every way they propose to furnish and they shall accompany their bid or proposal with the cash deposit and execute contract and bond as hereinbefore provided.

Section 10.—Be it further enacted, That as soon as said commission shall have entered into a contract or contracts for the furnishing or supplying of books for use in the public schools in this State it shall be the duty of the governor to issue his proclamation announcing such facts to the people of the State.

Section 11.—Be it further enacted, That the party or parties with whom the contract shall be made shall establish and maintain two or more depositories in the State, to be designated by the commission, where a stock or supply of the books sufficient to meet all the immediate demands shall be kept. There shall also be maintained in each county in the State not less than three agencies, for the distribution of the books to the patrons' to be located and designated by the commission and the contractor shall be permitted to make arrangements with a merchant or other person for the handling and distribution of the books. All books shall be sold to the consumer at the retail contract price, and in each book shall be printed the following: (The price fixed herein

is fixed by State contract and deviations therefrom shall be reported to your county superintendent of education, or the State superintendent at Montgomery.) And it is expressly provided that should any party contracting to furnish books as proviided for in this act, fail to furnish them or otherwise breach his contract, in addition to the right to the State to sue on the bond hereinabove required the county superintendent of any county may sue in the name of the State of Alabama, in any court of competent jurisdiction in the county in which he resides for the use and benefit of the school fund of the county; Provided, that the right of action of the county superintendent shall be limited to breaches of the contract committed in the county of his residence, and provided further, that in all cases under this act service of process may be had and deemed sufficient on any agent of the contractor in this State.

Section 12.—Be it further enacted, That said commission may from time to time make any necessary regulation not contrary to the provisions of this act, to secure the prompt distribution of the books herein provided for and the prompt and faithful execution of all contracts, and it is expressly now provided that said commission shall maintain its organization during the five years of the continuance of the contract and after the expiration of the same to renew such of them as they deem advisable, or re-advertise for new bids or proposals as required by this act in the first instance, and enter into such other contracts as they deem for the best interests of the patrons and children of the public schools of this State; Provided, That any contract entered into or renewed shall be for the term of five years.

Section 13.—Be it further enacted, That as soon as practicable after the adoption provided for in this act, the State Superintendent of Education shall issue a circular letter to each county superintendent of education and each teacher in the State, and to such others as he may desire to send it, which letter shall contain the list of books adopted, the prices, location of agencies, and manner of distribution and such other information as he may deem necessary.

Section 14.—Be it further enacted, That as soon after the passage of this act as may be practicable and the commission may deem advisable, the books adopted as a uniform system of text books shall be introduced and used as text books to the exclusion of all others in all the public free schools in this State; Provided, That nothing herein shall be construed to prevent the use of supplementary books such as may be prescribed and selected by the text book commission, but such supplementary books shall not be used to the exclusion of the books prescribed or adopted under the provisions of this act; Provided, further, that nothing in this act shall be construed to prohibit the use in public schools of any text book upon any branch mentioned in any previous section of the act, where the commission shall select or adopt a book for that branch or subject; Provided, further, That nothing in this act shall prevent the teaching in any school any branch higher or more advanced than is embraced in any previous section of this act, nor the using of any book upon such higher branch of study, provided that such higher branches shall not be taught to the exclusion of the branches mentioned and set out in this act.

Section 15.—Be it further enacted, That nothing herein shall be construed to prevent or prohibit the patrons of the public schools throughout the State from procuring books in the usual way in case *no* contract shall be made or the contractor fails or refuses to furnish the books provided for in this act, at the time required for their use at the respecive schools.

Section 16.—Be it further enacted, That any person or teacher violating the provisions of this act, shall become guilty of a misdemeanor, and upon conviction be punished by a fine of not less than ten dollars nor more than fifty dollars.

Section 17.—Be it further enacted, That any teacher who shall use or permit to be used in his or her school any text book upon the branches embraced in this act, where the commission has adopted a book upon that branch other than the one so adopted, shall be guilty of a misdemeanor, and upon conviction punished as provided for in Section 16 of this act.

Section 18.—Be it further enacted, That if any local agent, dealer, clerk or other person handling or selling the books adopted under this act, shall demand or receive for a copy of any of the books herein provided for, more than the contract price, in cases where the purchase is for cash, he shall be guilty of a misdemeanor, and upon conviction shall for each offense be punished by fine of not less than fifty nor more than five hundred dollars.

Section 19.—Be it further enacted, That the sum of two thousand dollars or so much thereof as may be necessary to be paid out of the moneys in the treasury not otherwise expended, be and is hereby appropriated for the purpose of paying the cost and expense of carrying into effect the provisions of this act.

Section 20.—Be it further enacted, That the Governor and Superintendent of Education shall serve on the commission without compensation and the other members of the commission and the sub-commission shall be paid the sum of four dollars per day during the time they are actually engaged, not to exceed thirty days, and in addition shall receive ten cents per mile for each mile traveled from their home to their place of meeting and return thereto, to be paid out of the general fund, and they shall each make and swear to a statement of the number of miles traveled and the number of days actually engaged.

Section 21.—Be it further enacted, That the said sub-commission is authorized to appoint a clerk who shall have three dollars per diem during the time he is actually engaged not to exceed thirty days, and the same mileage as is allowed the sub-commission.

Section 22.—Be it further enacted, That the adoption made as provided for in this act shall continue for five years from the date of such adoption; Provided, The provisions of this act shall not apply to those counties that have adopted a uniform system of text books for their public schools and have contracted for a supply of such text books, until the expiration of said contracts respectively unless they see fit sooner to accept the provisions of this act, and provided further that no new con-

tract shall be made after the passage of this act by any county board of education, or by the board of education of any city or town in this State.

Section 23.—Be it further enacted, That in case of the failure of any contractor to furnish the books as provided in this contract, then his bond shall be declared forfeited, and the State school book commission is authorized and empowered to make such other contract for the unexpired term with any person to provide such books as they may deem advisable for the best interests of the State.

Section 24.—Be it further enacted, That this act shall take effect from and after its passage.

Approved March 4, 1903.

No. 391.) AN ACT (H. 654.

To establish at the University of Alabama a summer school for teachers, and to provide an appropriation for its maintenance, and to provide for the examination of teachers attending said summer school. *Whereas,* it is generally conceded that the greatest educational need in Alabama is a properly trained teaching force, therefore,

Section 1.—*Be it enacted by the Legislature of Alabama,* That the Trustees of the University of Alabama be and they are hereby authorized and directed to establish at that institution a school to be known as the Summer School for Teachers, at which during the summer months instruction shall be given in all the public school studies, and in such other studies as may be necessary to better prepare teachers for efficient service in the public schools of the State.

Section 2.—*Be it further enacted,* That for the maintenance of the said summer school for teachers, the sum of five thousand dollars is hereby appropriated annually from any moneys in the State treasury not otherwise expended by law.

Section 3.—*Be it further enacted,* That the said sum of five thousand dollars appropriated by this act, shall, on the first day of July of each year, be paid by the State Treasurer to the treasurer of the University of Alabama on warrants drawn by the State auditor as warrants are drawn for other appropriations to the University.

Section 4.—*Be it further enacted,* That the trustees of the University of Alabama shall report in writing to the Legislature at each regular session thereof the manner in which the appropriation herein made has been expended. *Provided,* That this appropriation shall not be available in any year till the president of the University shall certify to the Governor that the supplemental sum of twenty-five hundred dollars has been raised from other sources. *Provided further,* That no matriculation or tuition fee shall be charged to Alabama teachers, and no incidental fee exceeding three dollars per session shall be charged to any Alabama teacher.

Section 5.—*Be it further enacted,* That the State Board of Examiners for teachers be authorized and directed to conduct or have conducted, annually, at the University at the close of the summer school for teachers, an examination for the convenience of teachers attending that school. The examination shall be equal in all respects to the regular examination required by law. The same fee shall be charged and the examination shall be conducted under the same rules and regulations.

Approved October 1, 1903.

No. 272.) AN ACT. (H. 400.

To amend sections 405 and 407 of the Code of Alabama of 1896.

Section 1.—Be it enacted by the Legislature of Alabama, That sections 405 and 407 of the Code of Alabama be amended so as to read as follows: 405 Board of Control; how constituted. Each of such stations and

schools is under the supervision and control of a board of control to be composed of the following members: The State Superintendent of Education, the Commissioner of Agriculture and Industries, the Governor, and two men who shall be residents of the respective congressional district wherein the school for which they are appointed is located. Said members from the congressional districts shall be appointed by the Governor, and shall only serve as members of the board for the school which is located in their respective congressional districts. The terms of office shall be for a period of four years and until their successors are appointed. The members of said board must not receive any compensation other than traveling expenses actually incurred in attending meetings of the Board of Control, and said Board of Control shall have power to elect a treasurer for each school, fix his bond, compensation and prescribe his duties. Said Board of Control shall also have power to select such other officers as they may deem advisable, prescribe their duties, and shall also have power to make all necessary arrangements for drawing the funds appropriated by law, and the disbursement of the same. 407. Not less than five hundred dollars of the sum so appropriated to each of said schools shall be used in maintaining, cultivating and improving the farms respectively, and making agricultural experiments thereon under and by direction of the Board of Control and the Professor of Agriculture in the Alabama Polytechnic Institute; further the course in scientific agriculture and floriculture as required in Section 413 shall be formulated for the schools and experiment stations by the said professor of agriculture of the Alabama Polytechnic Institute. When on official visits said Professor of Agriculture shall be paid by the Board of Control, his traveling expenses thus incurred.

Section 2.—All laws and parts of laws in conflict with this act is hereby repealed.

Approved September 30, 1903.

No. 535.) AN ACT (H. 1042.

To provide, at the several Normal Schools of Alabama, for the two extra periods for examination of applicants to teach in the public schools.

Be it enacted by the Legislature of Alabama, That the Superintendent of Education be and is hereby authorized and permitted at his discretion to allow in May and October an examination at any Alabama Normal school requesting it, for applicants to teach in the public schools of this State; that said examination shall follow the same regulations as the regular examinations now established, and that the expense of said examination is to be borne by the applicants.

Approved October 6, 1903.

No. 560.) AN ACT (S. 409.

To provide for the teaching of Agriculture in the public schools.

Section 1.—Be it enacted by the Legislature of Alabama, That in addition to the branches now taught in the public schools, instruction shall be given in the elementary principles of agriculture, and said subject shall be taught as regularly as other branches are taught in said schools, by the use of the text book in the hands of the pupils, and such instruction shall be given in all the public schools of the State, except in public schools in cities of 500 inhabitants and over.

Section 2.—Be it further enacted, That no license shall be granted to any applicant to teach in the public schools of Alabama who has not passed a satisfactory examination in said branch.

Section 3.—Be it further enacted, That this act shall take effect on and after its passage, but it is provided further that the first examination in said branch shall not be held earlier than October, 1904.

Section 4.—Be it further enacted, That all laws and parts of laws in conflict with the provisions of this act be and the same are hereby repealed.

Approved October 10, 1903.

No. 409.) AN ACT (S. 348.

To provide for an election to levy and collect a special tax for the support of public schools in the various counties of the State of Alabama. Be it enacted by the Legislature of Alabama:

Section 1.—That upon a petition signed by two hundred or more qualified electors of the county who are also freeholders, to the court of county commissioners, or court of like jurisdiction in any county within the State of Alabama, the said court shall order an election to determine whether or not a special tax shall be levied for the support of the public schools within the said county as is hereafter provided; but only one such election shall be held in any two years. There shall be made publication of the same in some newspaper within the county, which publication shall show the rate of such proposed tax, the time it is proposed to be continued, and the purpose for which the levy is proposed to be made.

Section 2.—The inspectors and officers of the elections shall be appointed and such election shall be held, and the results of said elections shall be declared in the same manner and by the same officers as is the result of the regular elections for county officers under the general laws of the State.

Section 3.—The Court of County Commissioners or court of like jurisdiction shall provide a sufficient number of ballots for each voting precinct within said county, and at the top of each ballot shall be printed the rate of such proposed tax, the time it is to be continued, and that the purpose is for the support of the public schools, and directly underneath in plain type shall be printed

on different lines the words, "For Proposed Taxation," "Against Proposed Taxation," and a place must be left directly to the left of each line thereof, and the voter favoring the proposed taxation will make a cross mark directly to the left of the line "For Proposed Taxation," and the voter not favoring proposed taxation, will make a cross mark directly to the left of the line, "Against Proposed Taxation," and if it appears as the result of said election that three-fifths of those voting at said election have voted for the proposed taxation, the Court of County Commissioners or court of like jurisdiction shall levy said special tax and cause the tax assessor to assess the same on the taxable property in said county, which shall not exceed ten cents on each one hundred dollars of taxable property in such county; but the rate of such special tax shall not increase the rate of taxation, State and county combined, in any one year to more than one dollar and twenty-five cents on each one hundred dollars of taxable property in said county, but all special county taxes for public buildings, roads, bridges and the payment of debts existing at the ratification of the Constitution of 1875 shall not be included in the aforesaid one dollar and twenty-five cents on the one hundred dollars of taxable property.

Section 4.—Whenever such a levy as is provided for in this act is made it shall be the duty of the tax collector within and for that county to collect such a tax in the same manner and under the same requirements and laws as taxes of the State are collected, and he shall keep said amount separate and apart from all other funds and keep a clear and distinct account thereof showing what amount is paid by the negro race and what amount is paid by the white race, and turn the same over to the County Superintendent of Education, whose duty it shall be to receipt therefor and apportion the same to the various schools throughout the county in the same manner as the general school funds from the State are apportioned in said county, provided, that the school terms of the respective schools shall be extended by such supplement as nearly the same length of time as practicable.

Section 5.—The election hereinbefore provided for may be had at the time of holding any regular election within the county, and if held at such a time the inspectors and officers of the general election shall conduct at the same time the election herein provided for; and for such services they shall receive no compensation other than that allowed them for the holding of the general election; but if such an election is had at such other time than that of holding a regular election within the county, then the election officers shall receive the same pay as that for holding a general election; and if such levy is made as provided for in this act the tax collector, tax assessor and county superintendent of education shall receive for the services required of them under the provisions of this act, the same per centum of the funds handled as they now receive for like services, Provided, that the time said special tax may continue shall not be less than two years.

Section 6.—All persons who are at the time of such election qualified electors in the county where such election is held under the law and constitution of Alabama, then in existence, shall be qualified electors to participate therein.

Approved October 1, 1903.

No. 390.) AN ACT (H. 668.

To authorize the Court of County Commissioners, or other governing body of like jurisdiction, in any county in this State, to levy and collect such special taxes, not to exceed one-fourth of one per centum per annum, to pay any debt or liability now existing against any county, incurred for the erection, construction or maintenance of the necessary public buildings or bridges, or that may hereafter be created for the erection of necessary public buildings, bridges or roads.

Section 1.—Be it enacted by the Legislature of Alabama, That the Court of County Commissioners, or other governing body of like jurisdiction, in any county in this

State, is hereby authorized to levy and collect such special taxes as it may deem necessary, not to exceed one-fourth of one per centum per annum, for the purpose of paying any debt or liability now existing against any county, incurred for the erection, construction or maintenance of the necessary public buildings or bridges, or that may hereafter be created for the erection of public buildings, bridges or roads, which taxes so levied and collected, shall be applied exclusively to the purposes for which the same are so levied and collected.

Approved September 30, 1903.

No. 365.) AN ACT (S. 210.

To provide for the redistricting of the public schools of the State and for the management and control of same.

Section 1.—Be it enacted by the Legislature of Alabama, That township lines for school purposes, in the State of Alabama, are hereby abolished; provided nothing herein contained shall be so construed as to deprive the inhabitants of any township in this State of the sixteenth section or any fund arising therefrom, for the purpose of selling and leasing the sixteenth section school lands of the several townships as provided by law there shall be three township trustees in each township to be appointed as now provided by law, the existing township trustees shall continue in office until the expiration of their terms of office for the purpose of selling and leasing such lands.

Sec. 2.—One of the county commissioners or a member of the County Board of Revenue to be selected by such commissioners or Board of Revenue, the County Superintendent of Education, and one of the county surveyors to be named by the court of county commis-

sioners, or Board of Revenue, in each of the several counties of the State, are hereby created the county redistricting board, whose duties shall be as hereinafter provided.

Sec. 3.—That on the first Monday in March, 1904, the county redistricting boards provided for in section two of this act, shall meet at the court house in their respective counties and organize by electing one of their number as chairman. The County Superintendent of Education shall be, by virtue of his office, Secretary of such board; a majority of the members of such board shall constitute a quorum.

Sec. 4.—As soon as practicable after organization the said county redistricting boards shall lay out and divide their respective counties into public school districts according to centers of population and natural barriers Such districts shall be so arranged, if practicable, as to place a public school within two and one-half miles of each child within school age within such district; provided that no district shall be formed which contains less than fifteen children within the school age.

Sec. 5.—The work of establishing such districts as provided in this act, shall be completed not later than June 1st, 1904, within ten days after said work shall have been completed, the said several county redistricting boards shall make, in writing, an accurate description of each district so established, which descriptions they shall deposit with the Judge of Probate, whose duty it shall be to record the same in a substantially bound book, to be kept by him for this purpose in his office.

Sec. 6.—On the first Saturday in July, 1904, and each fourth year thereafter, the qualified electors of each public school district shall meet at the district public school house and elect from among the freeholders and householders who can read and write, residing in such districts, a local board of three distinct trustees whose duty shall be as hereinafter provided. Such district trustees shall hold office for the term of four years from

the time of their election, and until their successors are elected and qualified.

Sec. 7.—The trustees provided for in the last preceding section shall within ten days after their election meet at the public school district school house, or some place more convenient to all concerned, and shall organize, by electing one of their number chairman and another secretary.

Sec. 8.—The district trustees shall, during the month of August, 1904, and in every even numbered year thereafter, make an enumeration of all the children within school age in their respective districts in accordance with the requirements of section 3573 of the Code of 1896, and report the same as herein provided to the County Superintendent of Education, who also shall, by the 15th day of said month, make a written report of such enumeration by numbered districts to the State Superintendent of Education, and it shall be the duty of the County Superintendent of Education to enumerate or cause to be enumerated, all the children of school age in any township or townships in his county in which the sixteenth section interest exceeds the amount of per capita apportionment from the general fund, and report the same to the office of the State Superintendent of Education.

Sec. 9.—It shall be the duty of said district trustees to care for all school property, employ teachers for their school districts, such employment to be subject to the approval of the County Board of Education, to visit the schools within their respective districts, observe the management of the same, to make quarterly reports of the condition of such school to the County Superintendent of Education, and to perform such other duties as may be required by the county board of education hereinafter provided for.

Sec. 10.—The chairman of the several boards of district trustees shall meet at the court house in their respective counties on the second Saturday in August after their election and every four years thereafter, and shall elect four county school trustees, who shall hold office for the term of four years from the date of their elec-

tion and until their successors are elected and qualified. Before entering upon the duties of office, they shall take the oath of office prescribed by the Constitution of the State. The County Superintendent of Education and said four county trustees shall constitute the County Board of Education within their respective counties. The County Superintendent of Education shall be the chief executive officer of said county boards of education, and shall see that all the rules, regulations and orders of said county boards are enforced; provided, however, that no county trustee shall, during his term of office, be eligible to election as a district trustee.

Sec. 11.—The said County Board of Education shall have entire control of the public schools within their respective counties, unless otherwise provided by law. They shall make rules and regulations for the government of the schools, see that teachers perform their duties, and exercise such powers, consistent with the law, as in their judgment will best subserve the cause of education. The said board shall have the right to acquire, purchase, lease, receive, hold, transmit and convey the title to real and personal property for school purposes. Said Board of Education shall by and in the name of the County Board of Education sue and be sued, contract and be contracted with; all contracts to be made after resolution adopted by said board and spread on its minutes and signed by the president and secretary, and all process shall be executed on the secretary of said board.

Sec. 12.—Whenever there shall have been established in any school district, a system of graded schools free to the children of school age, within such district for a period of not less than eight months in each year, the electors of such districts may increase the number of the district trustees to five and assume entire control of the public schools therein; provided, the trustees of such districts shall make all reports required by law to the county board of education.

Sec. 13.—Each member of the county redistricting boards named in section two of this act shall receive two dollars a day for each day in which he is actually employed in forming school districts under this act to be

paid out of the county treasury upon the written requisition of the president and secretary of such board; provided, that no member of said board shall receive pay for more than fifteen days, and provided, further, that the County Superintendent of Education shall receive no pay for serving on said board.

Sec. 14.—Each of the four members of the county board of education, provided for in section 10 of this act shall receive from the public school funds of the county to be disbursed by the County Superintendent of Education two dollars a day for each day's work devoted by him to the public schools; provided, he shall not receive pay for more than ten days in any one year. The County Superintendent of Education shall apportion among the several school districts the amount of compensation to be paid to the members of the County Board of Education and to account for the same in like manner as provided for the compensation paid to teachers in such districts.

Sec. 15.—The County Superintendents of Education shall receive and, by and with the advice and consent of the County Board of Education and under its direction shall disburse all moneys appropriated and provided by law, or that may hereafter be provided for by law, either general or special, for the support of any and all public schools within their respective counties. For their compensation, they shall receive four per centum on all State public moneys legally disbursed by them, not to exceed the sum of eighteen hundred dollars for any calendar year. For all moneys received and disbursed by them, the county superintendent shall account to the State Superintendent of Education, as now provided by law.

Sec. 16.—The lines and boundaries of any school district may be changed by a vote of a majority of the County Board of Education, thirty days after due notice shal have been given by such board to the school trustees, and the people in the territory to be affected by the change and such change may add to or take from any district composed of an incorporated city or town such contiguous territory as such board may deem best; notice of the proposed change being given by three

weekly publications in a newspaper published in said county, and in three public places by posting notices.

Sec. 17.—That any vacancy on the County Board of Education or on any district board of trustees, shall be filled for the unexpired term by the remaining members on said board of education or board of trustees as the case may be.

Sec. 18.—This bill shall not be held to affect any school contract or the conduct, management and control of public schools during the school year ending September 30, 1904.

Sec. 19.—The provisions of this act shall not apply to any county heretofore districted by law and which has a special levy from the county for the support of the public schools or to school districts heretofore established by law.

Sec. 20.—That each incorporated city or town in the State is hereby created a separate school district. In all municipalities where there is a board of education the board shall have full charge and control of such separate school districts and shall have and exercise all the powers and authorty conferred by law upon township trustees. In municipalities where there is no such board of education, the powers and duties of trustees shall devolve upon and be performed by the mayor and board of aldermen, and all funds due such separate school districts shall be paid directly by the State Superintendent of Education to the board of education of such separate school districts, or to the mayor and board of aldermen where there is no such board of education, and provided that nothing in this act contained shall be construed as in conflict with section 12 of this act.

Approved September 30, 1903.

No. 298.) AN ACT (H. 498.

To regulate all school districts affected by the creation of new counties or the change of county lines and to provide for the election of trustees therein.

Section 1.—Be it enacted by the Legislature of Alabama, That any school district, which by the creation of new counties or the change of county lines, shall lie in two or more counties, shall in no wise be repealed by the creation of said new counties or the change of county lines.

Sec. 2.—That the superintendent of the counties in which said school districts shall lie, shall pay over to the treasurer of said school boards in said school districts, all the funds of money coming into their hands due said school districts.

Sec. 3.—That the trustees of a school district which is placed in two or more counties by the creation of new counties or the change of county lines shall be appointed by the Superintendent of Education of the county in which a majority of the children within the school age of said school reside.

Sec. 8.—That all parts of laws of said school districts, which, by the creation of new counties or the change of county lines, lie in two (2) or more counties, which are in conflict with the provisions of this act are hereby repealed.

Approved September 26, 1903.

No. 233.) SENATE JOINT RESOLUTION. S. J. R.

Whereas, By an act of the 38t hCongress of the United States each State is invited to place in the National Statuary Hall at Washington, D. C., the memorial statutes of two citizens of such State who may be distinguished for exalted and patriotic service; therefore, Be it resolved by the Senate of the Legislature of Alabama, the House of Representatives concurring, that the long and distinguished labors of the educaotor, Jabez Lamar Monroe Curry, shall be accorded this tribute of affectionate regard, and that his name shall be and is hereby formally designated for grateful commemoration by the erection of a statute of marble of bronze in the said

National Statuary Hall. Resolved further, that the Governor of this State shall be and is hereby empowered to take the necessary steps to carry this resolution into effect.

Filed in office, Sept. 29, 1903.

J. THOMAS HEFLIN,
Secretary of State.

(This resolution became a law under Section 125 of the Constitution of 1901, having been held by the Governor beyond the time limit.)

No. 143.) AN ACT (H. 407.

To validate, ratify and confirm the election of all county commissioners, and boards of revenue, and all county superintendents of education who were elected to such offices in the several counties of this State at the general election for State officers, and Congress members, held on the first Tuesday in November, 1902. Whereas, at the general election for State officers, and Congress members, held in this State on the first Tuesday in November, 1902, there were also chosen and elected in many of the counties of the State, county commissioners and boards of revenue and county superintendents of education, and whereas, it is a question of very grave doubt as to whether the law provided for and authorized the election of such county commissioners and boards of revenue and county superintendents at said election, and as to the legality of the election of such county commissioners and boards of revenue and county superintendents of education, at said election, and, whereas, it is expedient that all doubt be removed as to the right of such county commissioners, and boards of revenue and county superintendents of education to hold and exercise the duties of their respective offices.

Secton 1.—Be it enacted by the Legislature of Alabama, That the election of all county commissioners,

and boards of revenue, and county superintendents of education, who were elected to such offices in the several counties in the State, at the election for State officers and Congress members, held on the first Tuesday in November, 1902, be and the same is hereby validated, confirmed, ratified, and approved, and made to be as binding and to have the same force and effect as if the election of such county commissioners, and boards of revenue, and county superintendents of education had been fully provided and authorized by law, at the time of their said election on the first Tuesday in November, 1902.

Sec. 2.—That all laws and parts of laws in conflict with the provisions of this act be and the same are hereby repealed.

Approved arch 5, 1903.

No. 539.) AN ACT (H. 651.

To empower municipal corporations to purchase school property and maintain public schools.

Be it enacted by the Legislature of the State of Alabama:

Section 1.—That all municipal corporations in this State are hereby empowered to purchase school property, or to purchase lots and erect school buildings thereon for the use and benefit of the citizens of their respective towns and cities.

Sec. 2.—That for said purpose the town council or board of aldermen may levy a tax of not exceeding one-fourth of one per cent. provided that the city or town tax shall not exceed one-half of one per cent. for all purposes, including said school tax.

Sec. 3.—That the town council of board of aldermen are hereby empowered to purchase school property from time to time for the maintenance and improvement of such school property and the maintenance of public schools therein within the limits hereinbefore prescribed.

Sec. 4.—That any purchase of school property under the power herein granted shall only be made by the unanimous vote of the town council or board of aldermen of such town or city, and approved by the mayor, and upon two-thirds vote of the voters of said town voting on said proposition at a special election held for that purpose after giving at least ten days notice of said election.

Approved October 6, 1903.

No. 230.) AN ACT (H. 286.

To provide for the sale of Sixteenth section lands, which contain or are believed to contain minerals.

*Be it enacted by the Legislature of Alabama*s

Section 1.—That the township trustee or trustees of any township may, with the approval of the State Superintendent of Education, as hereinafter provided, sell any sixteenth section school lands of their respective townships, which contain or are believed to contain minerals, in the following manner: Upon the request of three or more inhabitants of such township the township trustee or trustees shall hold an election to ascertain whether the lands of such township shall be sold; such election shall be under the control and supervision of the township trustee or trustees, and shall be held after ten days' notice has been given thereof by posting notices at three public places in the township. If in such election a majority of the qualified electors of such township who are the parents of children attending the public schools of such township vote for a sale of such lands, such township trustee or trustees shall cause to be published once a week for three successive weeks, in some newspaper published in the county where such lands are situated, a notice that sealed bids will be received by said trustee or trustees at a time and place specified in such notice, from the persons desiring to purchase all or any part of such lands of such township. And such trustee or trustees shall, at the time

and place named in said notice, receive sealed bids of all persons who may desire to purchase any of such lands. Such bids shall state whether the bidder desires to purchase all or a part of such lands, the price he proposes to pay for the same, how much, if any, of such purchase money is to be paid in cash, and the security he proposes to give for any unpaid purchase money, the rate of interest such unpaid purchase money shall bear, and the time and installments, if any, such unpaid purchase money shall be paid in; and if such lands have been previously leased, such bids may be for the rent as well as for the reversion of such land; and such bids may contain any other proposal with reference to the purchase of such lands and the security to be given for unpaid purchase money. If such trustee or trustees approve any of such bids, the same shall be by them or him forwarded to the State Superintendent of Education. If such bid is approved by the State Superintendent of Education, he shall mark it approved. If disapproved by him he shall mark it disapproved; and in either event, he shall file it with the records in his office. In the event of the approval of such bid by the Superintendent of Education, the bidder shall execute his obligation or obligations with two sureties to be approved by the Superintendent of Education, for the unpaid purchase money of such lands and the interest thereon, which obligation or obligations shall be payable to the township in which such lands are situated, and which shall be kept by the Superintendent of Education. The bidder shall also pay any cash provided by his bid to be paid in cash, and thereupon the Superintendent of Education shall issue to such purchaser a certificate of purchase which shall describe the land sold, and shall fully set forth the price, terms and conditions of the sale as set forth in the accepted bid; such certificate shall be prima facie evidence that all the pre-requisites to a valid sale of such lands have been complied with. If default is made in the payment of any installments, interest or principal agreed to be paid by such purchaser, and such default continues for one year or more, all title to the land sold shall revest absolutely in such

township. Upon payment in full of the purchase money with any interest agreed to be paid, there shall issue to such purchaser a patent to be signed by the Governor and attested by the Secretary of State, which shall be conclusive evidence that all title to the lands therein described has vested in the purchaser named therein. In the event of the abolition by law of the office of township trustee the duties herein provided to be performed by them shall be performed by the County Superintendent of Education.

Sec. 2.—That all purchase money for such lands, cash and deferred, and all interest or such unpaid purchase money, shall be paid to the Superintendent of Education, by whom it shall be reported to the Auditor and paid into the State Treasury. And the principal of all such purchase money paid into the State Treasury and any money paid as a sinking fund shall bear interest in the same manner as other school funds in the treasury bear interest, and shall be used exclusively for the public schools of the township to which said lands belong. And all interest paid annually or oftener by the purchaser on the deferred payments of purchase money, shall not, after being paid into the State Treasury, bear interest, but shall be annually apportioned to and used exclusively in the maintenance of the public schools of such township.

Sec. 3.—That for their services in connection with any sale made under the provisions of this act, the township trustees or trustee shall receive one-half of one per cent. of the amount of the purchase price named in any accepted bid, which shall be paid to such trustees or trustee by the Superintendent of Education out of the first payment of the principal of such purchase money received by him.

Sec. 4.—That all laws and parts of laws, general and local,, in conflict herewith be and the same are hereby repealed.

Approved Sept. 22, 1903.

No. 137.) AN ACT (S. 83.

To amend Section 3562 of the Code of Alabama.

Section 1.—*Be it enacted by the Legislature of Alabama,* That Section 3562 of the Code of Alabama be amended so as to read as follows: The trustees in each township shall annually on the first Monday in September, or within seven days thereafter, call a meeting of the parents and guardians of the children of their township within the educational age, and at such meeting they shall in consultation with such parents and guardians, and with a view to subserve their wishes, interests and convenience transact the following business: 1. They shall determine the number of schools which shall be established in their township for the current scholastic year, and shall designate the same by number. 2. They shall fix the locaton of each school, the time of its opening, and the length of the session, which shall not be for a less term than is provided by law. 3. They shall, when they establish the schools in their township, apportion to each school so established, such an amount of the public school revenue apportioned to the township for the current scholastic year as they may deem just and equitable and for the equal benefit of the children thereof of school age.

Sec. 2.—They shall determine the number and what children shall be transferred from their districts to the school of other districts, and to what district transferred, during the scholastic year, and shall set apart such an amount of the money apportioned to their district to pay for such transferred children as they may deem just and equitable, and if it should be deemed impracticable to establish in any district a public school for the children of either race, on account of the want of a sufficient number of such race living within a reasonable distance, they shall determine whether any such children can be transferred conveniently to a public school in another district, and those that cannot be so transferred, and that have actually attended some

school in this State for the time during which the public schools were kept open for the current scholastic year, shall be entitled to the benefits of the amounts apportioned to their district; and they shall determine the amount to which each of such children shall be entitled, and the same shall be paid by the County Superintendent of Education to the parent or guardian of such child, for which a receipt shall be taken as in case of payments to teachers. 5. In those townships in which less than the requisite number of children of school age reside, it shall be the duty of the township trustees to arrange for the teaching of such children in such manner as they may deem proper and just, subject to the approval of the County Superintendent of Education, and to pay for the tuition of such children in the manner prescribed by law out of the school funds apportioned to such township. 6. Such other business as may be necessary to carry out the provisions of the law, which shall include the election of teachers.

Approved March 4, 1903.

CONSTRUCTION OF SCHOOL HOUSES.

The following is the *title* of An Act passed by the Legislature of Alabama at the session of 1903:

To authorize Boards of Revenue and Courts of County Commissioners in the several counties in the State of Alabama, to cause elections to be held in their respective counties, to authorize the issue of bonds for constructing or pay debts created for constructing public buildings, INCLUDING SCHOOL HOUSES AND BUILDINGS, public roads and bridges, and for such other purposes as may be authorized by law; to provide for the manner of giving notice of such election, the manner of holding same, and the payment of expenses thereby incurred; and to authorize the issue of bonds when at such election the voters thereat shall decide in favor of such bond issue. (See General Acts of Alabama, 1903, *page* 90.)

See Page 20, § 3582, of

GENERAL PUBLIC SCHOOL LAWS OF ALABAMA, 1903.

No. 140.) AN ACT (S. 147.
To amend Sections 3610 and 3612 of the Code of Alabama, of 1896.

Section 1.—*Be it enacted by the Legislature of Alabama,* That Section 3610 of the Code of Alabama of 1896 be, and the same is hereby amended so as to read as follows: 3610. County Superintendents Shall Make Pay Rolls.—On the fiifteenth day of each month the County Superintendent of Education shall make in duplicate, for each race separately, a pay roll, showing the names of all teachers engaged in teaching public schools in their counties, with their postoffice address, and the estimated amount that will be due to each teacher at the end of the current month from the funds of each township and range or district in its regular numerical order; and shall append thereto an affidavit that the same is correct. One of such duplicate pay rolls shall be retained by the County Superintendent, and the other he shall forthwith forward to the Superintendent of Education, who shall examine the same, and if found correct, it shall be approved by him and filed with the Auditor.

Sec. 2.—That Section 3612 of the Code of Alabama of 1896, be and the same is hereby amended so as to read as follows: 3612. Teachers Paid and Receipts Taken. —Immediately upon the receipt by the County Superent of the amount of the monthly pay roll, he shall pay the teachers, taking their receipt therefor on both copies of said pay roll, and must by the fifteenth day of each month return one copy of such receipted pay roll to the Superintendent of Education. Provided, that in case any teacher should fail to call for the mount due him (or her), the County Superintendents of their respect-

ive counties, shall at the expense and request of said teacher mail the said teacher a registered letter or check on some bank in their respective counties, for the amount due him (or her), provided, that in no case shall the County Superintendent pay a teacher or mail him (or her), a registered letter or check unless the said teacher's monthly report, duly certified to, is on file.

Sec. 3.—That all laws and parts of laws in conflict with the provisions of this act be, and the same are hereby repealed.

Approved March 24, 1903.

Important Opinions of the Attorney General.

August 12, 1903.

STATE TEXT BOOK LAW; EXEMPTION OF CERTAIN COUNTIES FROM OPERATION OF.

Hon Isaac W. Hill,
State Superintendent of Education.

Dear Sir:

Complying with your request I proceed to give you my views touching the matters below discussed.

Under the act of the Legislature of Alabama, approved February 18, 1891, a uniform series of text books was provided for Marshall county. This statute is not limited to any given period, but seems to have contemplated a permanent text book system for Marshall county. It was, therefore, in operation and effect on March 4, 1903, when the State Text Book Law was approved. Under the last named statute a county which, at the time of its approval, had a uniform system and had entered into contracts for supplies of books, is exempted from the provisions of the act until the expiration of such contracts. If Marshall county, acting under the County Statute, had contracts for the supply of school books on March 4, 1903, this State law will not apply to that county until the termination of such contracts, unless said county sees fit sooner to accept the provisions of the State law. The statute evidently contemplated that the contract which it refers to should be a written contract, certain and definite in all its terms, and especially as to the time it should run. If the county has a contract it could not abandon such contract without the consent of the other party to it.

Very respectfully,

Massey Wilson,
Attorney General.

November 6, 1903.

APPORTIONMENT OF COUNTY SUPERINTENDENTS OF EDUCATION.

Hon ISAAC W. HILL,
Superintendent of Education.

Dear Sir:

I acknowledge letter of John C. Williams to you of the 20th ultimo, relating to the above subject.

The Code provides that a county superintendent for each county should be elected at each general election, unless by a special act it is otherwise provided.—Code, Section 3550. Local acts provide for the apportionment of county superintendents in some of the counties. Sections 25 and 27 of the act "to further regulate elections in the State of Alabama," approved October 9, 1903, provide for the election of county superintendents in the several counties in the State. You wish to know whether this statute repeals the several local laws providing for the appointment of county superintendents in some of the counties.

There is no provision in the general election law, above cited, which in express terms repeals the local laws referred to. If it repeals such laws it must be by implication. Repeals by implication are not favored; and the repugnancy between two statutes should be very clear to warrant a court in holding that the later in time repeals the other, when it does not in terms purport to do so. This rule has peculiar force in the case of laws of special and local application, which are never to be deemed repealed by general legislation except upon the most unequivocal manifestation of intent to that effect. I do not think the several local laws providing for the appointment of county superintendents are repealed.

Yours respectfully,
MASSEY WILSON,
Attorney General.

January 23, 1904.

TOWNSHIP TRUSTEES; EXEMPT FROM THE PAYMENT OF POLL TAX; RIGHT TO VOTE.

Hon Isaac W. Hill,
Superintendent of Education.

Dear Sir:

I acknowledge receipt of a letter from Mr. L. M. Stevenson, Superintendent of Education of Randolph county, addressed to you, and asking whether or not Township Trustees are required to pay a poll tax in order to be qualified to vote. You request me to give you my view of this question.

The Constitution declares that "to entitle a person to vote at any election by the people, he shall have * * paid on or before the first day of February next preceding the date of the election at which he offers to vote, all poll taxes due from him for the year 1901, and for each subsequent year."—Constitution, Section 178. And that "the poll tax mentioned in this article shall be one dollar and a half upon each male inhabitant of the State, over the age of twenty-one years, and under the age of forty-five years, who would not now be exempt by law."—Constitution, Section 194.

So it will be seen that the payment of the poll tax is necessary to qualify a person to vote, except those persons exempt from the payment of poll tax on the date of the ratification of the Constitution, November 28, 1901. On that date, and for many years prior thereto, the statute was in force which exempts Township Trustees from the payment of poll tax, so long as they shall continue in office and perform the duties thereof. Code, Section 3575. Township Trustees being exempt from the payment of poll tax at the date of the ratification of the Constitution, and the Constitution declaring that the poll tax mentioned therein shall be $1.50 upon each male inhabitant not exempt by law, I am of the opinion that Township Trustees are not required to pay the poll tax in order to qualify to vote.

Very respectfully,

Massey Wilson,
Attorney General.

August 30, 1904.

THE APPORTIONMENT OF PUBLIC SCHOOL FUNDS.

Hon Isaac W. Hill,
Superintendent of Education,
Montgomery, Ala.

Dear Sir:

I have investigated the question of the method of apportionment of the Public School Funds, and respectfully submit my conclusions thereon.

The Constitution of 1875 contains the following section: "The general assembly shall establish, organize and maintain a system of public schools throughout the State, for the equal benefit of the children thereof between the ages seven and twenty-one years."—Constitution 1875, Article XIII, Section 1. In enumerating the duties of the Superintendent of Education, he was required to apportion the public school funds in the following way: "He shall annually apportion the public school fund to the various townships and school districts, according to the entire number of children of school age, and shall see to the proper disbursement of the same."—Code, Section 3546, sub-division 5. It will be observed that under the provisions above cited, the Superintendent of Education apportioned the public school fund to the various townships and districts, without reference to the counties in which such townships or districts were located. For purposes of apportionment the township or district was the governmental sub-division or entity to be dealt with.

There is a material difference in the correspondng section of the Constitution of 1901 upon this subject, from that contained in the Constitution of 1875. The present Constitution declares: "The Legislature shall establish, organize and maintain a liberal system of public schools throughout the State, for the benefit of the children thereof between the ages of seven and twenty-one years. The public school fund shall be apportioned to the several counties in proportion to the

number of children of school age therein, and shall be so apportioned to the schools in the districts or townships in the county, as to provide, as nearly as practicable, school terms of equal duration in such school districts or townships."—Constitution, Section 256. It will be noticed that the Constitution does not, in express words, declare who shall apportion the fund to the several counties. It is clear, however, that the intention is for the Superintendent of Education to make such apportionment. He made the apportionment to the townships or districts under the law as it existed at the time the Constitution became effective, and the supervision of the public schools is vested in him by both constitutional and statutory provisions. He should apportion the school fund to the several counties in accordance with the section of the Constitution above quoted.

After the fund has been apportioned to the several counties, the Constitution declares it shall be so apportioned to the schools in the districts or townships in the several counties, as to provide, as nearly as practicable, school terms of equal duration in such school districts or townships. The Constitution does not undertake to prescribe rules to accomplish this end. It declares the principle upon which apportionment to the various schools in the county shall be based but provides no machinery for carrying such principle into practical effect. The act "to provide for the redistricting of the public schools of the State, and for the management and control of the same," (General Acts 1903, page 289, Sections 10, 11 and 15), creates a county board of education in each of the several counties of the State, and defines the duties of such board. The act gives the county board of education entire control of the public schools, except when otherwise provided by law, gives it power to contract with teachers and make disbursements of the public fund subject to its approval. It does not in express terms give to such county board the power to apportion the public school fund to the several schools of the county, but I think the power to do this is included within and flows from the very broad and comprehensive terms used in the statute that define

its powers and duties. It will become the duty of the several county boards to apportion the public school fund to the schools in the districts in the various counties, in such a way as to provide, as nearly as practicable, school terms of equal duration in such school districts, after the Superintendent of Education shall have apportioned the fund to the various counties.

Yours respectfully,

MASSEY WILSON,
Attorney General.

Sept. 7th, 1904.

A COPY BOOK IS A TEXT BOOK, AND THAT ADOPTED MUST BE USED IN THE PUBLIC SCHOOLS WHEN WRITING IS TAUGHT.

Hon ISAAC W. HILL,
Superintendent of Education.

Dear Sir:

Your request for an opinion as to the proper construction, in the particular hereinafter indicated, of the recent act of the Legislature, providing for the creation of a Text Book Commission, and to procure for use in the public free schools in this State, a uniform series of text books, has been received.

The facts upon which information is desired are as follows:

Under this act the Text Book Commission selected and adopted for use in the public schools, a copy book published by Eaton & Company, and the contract was awarded to that firm to furnish these copy books for use in the public schools of this State, for a period of five years.

The Text Book Commission, in construing this act has held that it was permissible to teach writing in the public schools of Alabama, without copy books, and in some of the public schools, writing has been taught and is be-

ing taught without using the copy books, selected and adopted by the Text Book Commission. The question for considereation is, can it be left to the discretion of school boards, or teachers, to decline to use any text book selected and adopted by the Text Book Commission, and teach such branch of study by some other method, and without the use of such text books so selected and adopted.

It is declared in Sections 1, 16 and 17 of the act: "that the Governor, State Superintendent of Education, and three eminent teachers of the State * * * shall be and are hereby constituted the School Book Commission of the State of Alabama, whose duty it is to select and adopt a uniform series or system of text books *for use* in the public schools of this State. Said commission is hereby authorized, empowered and *directed* to select and adopt a uniform system or series of text books for use in the public schools in this State, as above indicated, and when so selected and adopted, the said text books shall be *used* for a period of five years in all the public schools of this State, and it shall not be lawful for any officer, director or teacher, to use any other books upon the same branches other than those adopted by said State Text Book Commission. Said uniform series shall include the following branches of study, to-wit:

"Orthography, reading, *writing,* arithmetic, geography," etc. "That any person or teacher violating the provisions of this act, shall become guilty of a misdemeonor, and upon conviction, be punished by a fine of not less than ten dollars nor more than fifty dollars."

"That any teacher who shall use or permit to be used in his or her school, any text book upon the branches embraced in this act, where the Commision has adopted a book on that branch other than the one so adopted, shall be guilty of a misdemeanor, and upon conviction, punished as provided for in Section 16 of this act."

It will be observed that Section 1 of the act specially provides—

First—For the appointment of a Text Book Commission.

Second—It is made the duty of said Text Book Commission to 'select and adopt a uniform series or system

of text books *for use* in the public schools of Alabama."

Third—The State Commission is authorized, empowered and *directed* to select and adopt a uniform system or series of text books *for use* in the public schools of this State.

Fourth—When said text books are so selected and adopted they *"shall be used* for a period of five years in all of the public schools of this State."

Fifth—It is further provided that it shall not be lawful for any school officer, director or teacher to use any other books upon the same branches other than those adopted by the State Text Book Commission.

Sixth—Said uniform series shall include the following branches of study to-wit: "Orthography, reading, writing, arithmetic, geography," etc.

It is clearly the legislative intent that the system of teaching these several branches shall be uniform in all the public schools in this State, and to that end, it is made mandatory that the text books selected and adopted by the Text Book Commission, shall be used for a period of five years, in the public schools, to the exclusion of all other books upon the same branches.

It is also clearly the legislative intent that the books adopted should be used in said public schools in order to secure said text books at a cheaper price than heretofore prevailed, and the mandatory requirement that these books, when selected and adopted, shall be used for a period of five years, was supposed to be an inducement to the various publishers to bid for the books at a lower cost than they could be bought at retail. If it were held that a teacher could refuse to teach arithmetic, or for that matter, any other text book selected and adopted, and teach that particular branch of study by a process of his own, independently of any book, this construction would emasculate the law, and leave it to the discretion of each school board, or teacher, to determine whether or not he could teach arithmetic "out of his head," by a higher or better process than by the books selected and adopted by the Text Book Commission, and thereby destroy the uniformity in teaching this branch. This intent is made still more specific and

clear by Section 16 of the act, which provides that any person or teacher violating the provisions of this act, shall be guilty of a misdemeanor, and as a further guarantee that the text books adopted and selected by the Commission, shall be used in the public schools of this State, Section 17 of the act makes it a misdemeanor for any teacher to use or permit to be used in his or her school, any text book upon the branches embraced in this act, other than those adopted.

The legislature has unlimited and exclusive power to select the text books to be used in the public schools, and to compel the use of the books selected. In the exercise of this power by the enactment before referred to, our court declares, in the case of Dickinson v. Cunningham (in M. S..): "Two things are very clear to our minds: one, that the legislature meant to provide an exclusive privilege in order to secure books at the best prices; the other, the legislature meant to prevent the possibility of any break in the uniformity of the system framed by the statute."

The question arises, therefore, as to whether or not the copy book, selected and adopted by the Text Book Commission for the uniform system or series of writing to be taught in the public schools of this State, is a text book. Of this there is no doubt. Webster defines a text book to be any manual of instruction; an educational treatise; a school book. The Century Dictionary defines it to be a book used by students, as a standard work for a particular branch of study; a manual of instruction. It is also there defined to be a book containing a "Text or Texts," and one of the definitions there given of the text, is "formal handwriting." The legal definition of a book is much more comprehensive, and greater than the popular idea of a book. A single sheet of music has been held to be a book within the purview of the law.—(A. & E. Enc. of Law, 2d ed., Vol. 4, pp. 703-704.)

The Supreme Court of Illinois in an able opinion (The People ex rel. v. Board of Education, 175 Ill. 9), held that a copy book was a text book within the meaning of the law of that State, which is very similar to the law of Alabama upon this subject. It is my opinion,

therefore, that the copy book of Eaton & Co., selected and adopted by the Text Book Commission, must be used and taught, in all the public schools of this State, wherever writing is taught, and that it does not lie in the discretion of any school board or teacher to provide for a different method of teaching writing, or to decline the use of these copy books in teaching that branch. The contrary view would make possible a "break in the unifomity of the system," which our Supreme Court says the legislature meant to prevent.

Respectfully yours,

MASSEY WILSON,
Attorney General.

September 24, 1904.

Hon ISAAC W. HILL,
Superintendent of Education.

Dear Sir:

I have your favor of the 22d inst., requesting my opinion of the questions below quoted:

"First.—Can any of the books that have been adopted by the State Text Book Commission for the use of the public schools of the State, be purchased from any person or dealer other than the publisher having the contract with the State to furnish such books, or his duly constituted and appointed depositories, or regularly and duly constituted agents throughout the counties of Alabama, and be used by a pupil or teacher in the public schools of Alabama?

"Second.—If any of the books that have been adopted by the State Text Book Commission for use in the public schools of the State, having printed or stamped upon them statements of the price and that they are supplied under the contract with the State, are sold by a dealer other than a duly appointed agent, or through channels other than those provided by law and under contract, and as a matter of fact they are not furnished by the publisher or supplied to said dealer or person offering them for sale through the agencies adopted, is the dealer or said person so selling such book, guilty of a violation of the statute, in such sort as to make him subject to conviction for a misdemeanor under said statute?"

(1.) The Supreme Court of Alabama has answered the first question in the negative. It is decided in the case of Dickinson v. Cunningham (in MS) that if abook adopted by the State Text Book Commission was purchased from a person or dealer other than the contractor and was not supplied through a depository or agency, such book could not be taught in the public schools. It follows that it would be a misdemeanor to use a book so obtained in the public schools of this State.

(2.) Under the Text Book Statute, and the contracts made with publishers pursuant to it, the successful bidders for the privilege of supplying books for the public schools have the exclusive right to supply such books for that purpose.—(Dickinson v. Cunningham, *supra;* Clark v. Haworth, 7 L. R. A., 240). While this exclusive privilege may result in benefit to the contractor, it is supposed to be of corresponding benefit to the public by enabling the patrons of the public schools to get better and cheaper books. The contractors are under bond in a large penalty to execute the contracts on their part. Books furnished under these contracts are required to come up to the standard of quality and excellence of the samples furnished with the bids and preserved by the Secretary of State. To make it easier to fix liability on the contractors for a violation of the statute, or of their contracts, and a safe-guard against the introduction into the schools of books other than those adopted, it is required that such contractors shall cause to be printed upon every book furnished under their contracts the contract price, the exchange price, and the fact that the price is fixed by state contract, and a request that deviations therefrom shall be reported to the school authorities. If a dealer who is not a contractor, or a designated depository, or a duly constituted agency, as provided for in the statute, should procure books from some source other than the regular channels provided in the law, and himself cause to be printed upon such books the matter required to be printed upon books sold under contract, and sell such books as if the same were sold pursuant to the text book law, I think such conduct would be a violation of the provisions of the act. Section 16 of the act declares

that any person violating its provisions shall be guilty of a misdemeanor. I think, however, that books which have been sold or supplied by a contractor with the State, or through his depository or agency, and which come up to the tests of the text book law, may be sold within the State by any person or dealer who may have become the owner of such books, without being subject to criminial liability. Neither do I mean to say that the mere sale of the adopted books by any dealer would be a violation of the law, although such books, unless supplied under the contracts with the State, could not be used in the public schools. It is the printing upon adopted books by persons who are not contractors, the matter required to be printed upon them by the contractors, and the selling of such books under and as in compliance with the statute by persons who are not contractors (privileges given exclusively to the contractors) which I think a violation of the law.

Very respectfully,

MASSEY WILSON,
Attorney General.

September 28, 1904.

APPORTIONMENT OF SPECIAL SCHOOL TAX.

HON. ISAAC W. HILL,
Superintendent of Education.

Dear Sir:

I am of the opinion that funds raised by the levy of a special tax for the support of public schools under the act approved October 1, 1903, should be apportioned in substantially the same way as the general school fund is apportioned: that is, to the districts in the county which are not governed by the general school law in the proportion which the school population of such districts bears to the entire school population of the county, and that the remainder of the funds should be apportioned to the several districts in the county which are governed by the general law in the same proportion that the general fund has been apportioned by the county board of education to such districts.

Very respectfully,

MASSEY WILSON,
Attorney General.

THE STATE OE ALABAMA—JUDICIAL DEPARTMENT.

THE SUPREME COURT OF ALABAMA.

November Term, 1904-5.

8 Div. 61.

G. A. Gibson et al.,

v.

Jay Mabrey, et al.

Appeal from Marshall Chancery Court.

SIMPSON, J.—This was a bill filed by G. A. Gibson, J. E. Buckalew and J. B. Geiger, who allege that they are the district trustees for school district No. 43, in Marshall county, Alabama, and are also resident citizens of said school district, taxpayers therein, and patrons of the public schools in said district, having children therein within the school age, against J. Mabrey as county superintendent of education and as chief executive officer of the county board of education of said county, and Cicero P. Bales, J. M. McCamey, Virgil Dickson and F. E. Oliver, the individual members composing said board, and Walter Amos.

The Redistricting Board, provided by Section 2 of the Act of 1903, p. 289, divided said county into school districts, and, in the district in question, located one school house.

The District Trustees provided for by Section 6 of said Act, not being satisfied with the arrangement of having only one school in said district, entered into a contract with a teacher to teach a school at another place in said district, which contract was disapproved by the county board, provided for by Section 10 of said Act.

Subsequently the county board entered into a contract with the defendant, Walter Amos, to teach at the place fixed by the said redistricting board for the school house in said district.

The bill seeks to enjoin the county superintendent of education from paying any of the funds, belonging to the public school fund of said district to said Walter Amos, or any other person, unless said person has been employed by them to teach a public school, and such

contract has been approved by said county board; also prays the court to "decree that said county board of education has no right ta prohibit the employment of more than one teacher in said school district, or to prohibit the employment of a teacher or teachers to teach more than one public school in said district, and that they be required and commanded to approve said employment of a teacher by complainants, as district trustees, where their approval has been withheld only on the ground that the school was not contracted to be taught at the place designated by the said redistricting board provided for by said Section 2 of said Act." Also that they be enjoined in the future, from employing any such teachers, and from directing their payment; also that the county superintendent be enjoined.

The contention of the appellant is that the new law is only an amendment of the old, and, (although there was no such officer under the old law as district trustee, and although the township trustees, under the old law, did not have the power to decide the number of schools to be held in a township, but had to call a meeting of the parents and guardians to attend to that matter, and although, under the old law, the action of said township trustees, in case the parents and guardians failed to act was subject to an appeal to the county superintendent, Code of 1896, Sections 3560, 3565) that the district trustees have a right to establish another school in a school district, make a contract with a teacher and demand that he be paid out of the school funds.

The Act of 1903 is clearly a restatement of the entire law on the subject of the redistricting of the public schools, and in regard to the management and control of the same, and was intended to set up a new system, so that whatever power any school officer may have on these subjects must be derived from this act. The duties of the district trustees are specifically enumerated in sections 7, 8, 9 and 10 of said Act, and there is no intimation of any power in them to determine how many schools shall be in the district, and they are authorized to employ teachers only "subject to the approval of the county board." So that, even after the location of the school has been fixed, any contract made by them with

a teacher is merely tentative, until it is approved by the county board. Where then does rest the power to regulate these matters? Sections 2, 3, 4 and 5 provide for "redistricting boards" and their duties, and although it seems to have been customary for them to fix the place for the schools, yet there is no specific direction for them to locate the schools. This, however, is immaterial, as the county board could adopt the location by them or adopt another, as they deem best.

Section 11 of the Act provides that the county board of education "shall have entire control of the public schools within their respective counties, unless otherwise provided by law. They shall make rules and regulations for the government of the schools, see that the teachers perform their duties, and exercise such powers consistent with the law, as, in their judgment, will best subserve the cause of education."

It is very clear that the matter of the location of the schools in the several districts, does not come within the powers conferred on the district trustees, but under the comprehensive powers given to the county board is a deliberative body charged with the duty of determining whether the employment by the district trustees of a teacher is such as, in the furtherance of the educational interests of the district, should be approved. Consequently, their reasons for approving or disapproving cannot be inquired into.

The statute makes it the duty of the ditsrict trustees to employ teachers, subject to the approval of the county board, but it is their duty to employ the teacher to teach at the place fixed by the county board. It is true that trustees may become obdurate, and, by failure to work in harmony, defeat the object of the law to have a school taught in each district, yet, in the matter of the selection of teachers, the intention of the lawmakers in the passage of this Act appears to be that it shall require the concurrence of both the district trustees, and the county board, to the selection and employment of a teacher.

It is true that the powers granted to the county board of education by Section 11 are very comprehensive, yet, as the previous section makes it the duty of the district

trustees to employ the teachers, we hold that the general powers given to the county board do not deprive the district trustees of the right to employ the teacher subject to the approval of the county board, nor authorize the county board to employ one.

It results that the 7th cause of demurrer to the bill should have been overruled, and the 1st, 2d and 3d causes were properly overruled. The 4th cause should have been overruled, and the 5th and 6th causes were properly sustained, and the 8th should have been overruled.

The chancellor erred in sustaining the motion to dismiss the bill.

The decree of the court, in so far as it sustained the demurrer to the bill is affirmed, but in so far as it sustained the motion to dismiss the bill the decree is reversed and a decree will be here rendered overruling the motion to dismiss the bill.

Affirmed in part, and reversed in part and rendered.

McCLELLAN, C. J., TYSON and ANDERSON, J .J., concurring.

To be reported.

THE STATE OF ALABAMA—JUDICIAL DEPARTMENT.

THE SUPREME COURT OF ALABAMA.

November Term, 1904-5.

4 Div. 960.

J. C. Brown,

V.

J. M. Sanders, Superintendent of Education, etc.

Appeal from Pike Law Court.

ANDERSON, J.—The school taught by the relator is located within the territory described in the Act of 1884-85, page 454, making the same a separate school district.

Section 19 of the Act of 1903, page 294, says: "The provision of this Act shall not apply to any county heretofore districted by law and which has a special levy from the county for the support of the public schools or *to school districts heretofore established by law.*"

Since the district in which the school in question is located, was established before the passage of the last mentioned Act, it has no application to said district, and the county board of education had no authority to select the relator as a teacher for that school, or to enter into a binding contract in reference to a school in said district. The relator has not made out a case that would entitle him to the relief sought.

The judgment of the court below is affirmed.

McCLELLAN, C. J., TYSON and SIMPSON, J. J., concurring.

To be reported.

November 18, 1904.

COUNTY SUPERINTENDENTS OF EDUCATION.

Hon. ISAAC W. HILL,
Superintendent of Education.

Dear Sir:

I think the terms of those of the County Superintendents who are elected and governed by the general law (Section 3551 of the Code), expired on the first day of October, of this year; and that successors who were elected at the November election of the present year are entitled to their offices as soon as they qualify.

If the incumbents do not surrender the offices, I think it will be necessary for their successors to take such legal steps as may be required to obtain possession of the offices, and of the books and papers pertaining thereto. Without possesson of these it will be impossible for the newly elected officers to discharge the duties of the offices, and in the meantime, (in order that the public business may not suffer) I think you may

properly continue to transact the necessary business of the offices through the incumbents. They are at least defacto officers, and their acts as such will doubtless be valid so far as the public is concerned.

Very respectfully,

MASSEY WILSON,
Attorney General.

June 26, 1905.

TAX OFFICER'S COMMISSIONS FOR COLLECTING SCHOOL TAX.

Hon. ISAAC W. HILL,
Superintendent of Education.

Dear Sir:

I beg to acknowledge letter from Mr. John C. Williams, Superintendent of Education for Talladega county, to you concerning commissions to be allowed the assessor and collector for assessing and collecting the special school tax in Talladega county.

The question should have been addressed to the State Auditor. The tax officers are required to make settlements through his office, and he will have to determine what commissions are allowable. It is my idea, however, that in estimating the assessor's commissions the aggregate of this and all other assessments should be taken, and that the commissions should not be allowed on the school tax separately, and that the collector is entitled to two per cent for collecting the special school tax. General Acts, 1903, p. 352; Code, Sections 3925 and 2997.

Yours truly,

MASSEY WILSON,
Attorney General.

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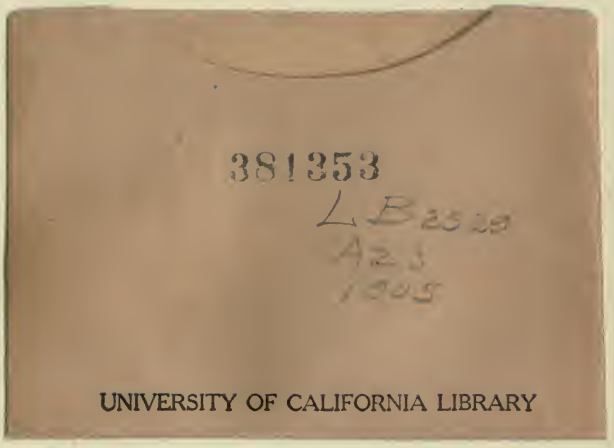
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